



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

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IO(09)07

AND

ZAHEER GHANCHI (SO-1123)

Friday, 23 April 2010

REVIEW OF AN INTERIM ORDER

REVIEW OF AN INTERIM ORDER: ZAHEER GHANCHI (SO-1123)

Friday, 23 April 2010

Fitness to Practise Committee: Ms Mercy Jeyasingham MBE (Lay) (Chair)
Mr Rod Varley (Lay)
Mr Paul Reeves (Optometrist)

Legal Adviser: Mr David Swinstead

Clinical Adviser: Dr Nick Seivewright

Hearings Manager: Mr David Henley BEM

For the Council: Mr John Hepworth

The Registrant did not appear and was not represented.

[Hearing commenced at 09.30 am]

Ms Jeyasingham: Good morning, I am Mercy Jeyasingham and I have been elected to chair today's review of the current nine month interim conditional registration order made on 12 November 2009. The Committee today is made up of one optometrist and two lay members. I will ask the members to introduce themselves and the capacity in which they sit. *[Introductions made]*

To my left is the Council's Clinical Adviser, Dr Seivewright, who will provide clinical advice to the Committee on any matters of health 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 David Swinstead, 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 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.

You should be aware that it is the Council's policy for the determination of the Committee and a transcript of proceedings to be displayed on the Council's website for public viewing, but where matters of health have been discussed, the determination will be redacted accordingly and the transcript will not be displayed.

I understand that the registrant is not in attendance today, nor is he represented. Mr Hepworth, would you like to lead on this?

Mr Hepworth: Madam, the relevant Rule is Rule 21 and that reads as follows:

"Where the registrant is neither present nor represented at a hearing, the Fitness to Practise Committee may nevertheless proceed if –

- (a) they are satisfied that all reasonable efforts have been made to notify the registrant of the hearing; and
- (b) having regard to any reasons for absence which have been provided by the registrant, they are satisfied that it is in the public interest to proceed."

Madam, please accept my apologies; that is at page 96 of your handbook.

Madam, the first matter about which you will need to be satisfied is all reasonable efforts have been made to notify the registrant of the hearing. Madam, I don't know if you have been provided with a bundle of papers headed, "Service of Notice of Hearing"?

Ms Jeyasingham: We have; do we mark this as C1?

Mr Hepworth: Madam, if you so wish.

Mr Henley: I think the whole hearing bundle will be C1; just refer to that as the Service bundle.

Mr Hepworth: Madam, you can see at page 1 a screen print of the registrant's entry in the register. You can see he gives an address in Bolton in Lancashire. You can see that the notice of today's hearing was sent on 24 February 2010 to that address. It was sent by means of a signed-for delivery and you can see the unique reference number given to the letter at the top left hand corner of page 2. Madam, you can see at page 5 that that piece of correspondence bearing that serial number was delivered from the Bolton delivery office in February. Although the signature is perhaps illegible you can see at the bottom the printed name is: "Mr Z Ghanchi".

Perhaps most important for your purposes you can see on pages 6 and 7 a letter sent by Richard Nelson Solicitors, who act for Mr Ghanchi. Madam, for

your purposes in relation to this decision, you can see that the first sentence reads as follows:

“I write to inform you that Mr Ghanchi will not be present or represented at the Interim Order Review hearing scheduled for 23 April.”

The author of this letter is Deborah Nicholson, his solicitor, with whom I have had some contact. She goes on to say:

“Mr Ghanchi wishes to emphasise he means no disrespect to the Panel via his non-attendance and has instructed us to make the following submissions on his behalf.”

Then she goes on to make those submissions.

Madam, in relation to Rule 21(a) in the Council’s submission you can be satisfied that all reasonable efforts have been made to notify the registrant of the hearing and indeed that he has been notified of the hearing. Madam, when you are exercising your discretion whether or not to proceed in his absence, in the Council’s submission it would be in the public interest to proceed. Mr Ghanchi clearly knows about the hearing and has authorised his solicitors to write down submissions on his behalf and has indicated that although he means no disrespect, but he is deliberately not coming today. He is not being prevented from coming by illness or any other means.

Madam, clearly there is a strong public interest in making efficacious progress with cases, particularly reviews which have to be held within a certain timescale. Madam, unless I can help you further, those are my submissions. The Council would invite you to proceed in the registrant’s absence under Rule 21.

Ms Jeyasingham: Thank you Mr Hepworth; I will just check with my colleagues. We are satisfied that we can proceed.

[Private hearing]

[Public hearing]

Ms Jeyasingham:

Decision (Redacted)

The Committee has considered all the material before it including that before the original Committee. It has taken account of the submissions made by Mr Hepworth on behalf of the Council. It has accepted the advice of the Legal Adviser. It has also accepted the advice of the Clinical Adviser.

The Committee considers that it remains necessary in the public interest for the interim order to continue. The registrant is still subject

to the suspended sentence of the court and it is only one year since his offence of drink driving. These are serious matters and the Committee is satisfied that its duty to maintain confidence in the profession necessitates the requirement to continue this order. It has also considered whether it is in the registrant's own interest that there is an order. However, it is still early in the process and the Committee considers that it is necessary, in his own interests, as well as in the public interest, for the order to continue.

The Committee went on to consider whether it was sufficient for the interim order for conditional registration to continue. It is satisfied that it is proportionate for the current order to continue.

The Committee reviewed the conditions imposed on the last occasion. It determined that the previous condition 2 has been satisfied and is no longer necessary. It also determined that condition 3 does not impose any requirement upon the registrant and is not, therefore, an appropriate condition. The Committee has amended condition 3.

The Committee therefore orders that these interim conditions remain in place for the remainder of the period of the order.

Condition 1

Redacted.

Condition 2

For the remainder of the period of his pre-registration training, the registrant shall provide to the Council a copy of each Trainee Visit Report undertaken by his assessor within 14 days of his receipt of the report.

Condition 3

The registrant must inform the Registrar within 14 days of any criminal convictions, police cautions or formal disciplinary proceedings taken against him from the date of this determination.

Condition 4

Redacted.

Condition 5

The registrant must not possess any drugs listed in Schedules 1-3 of the Misuse of Drugs Regulations 2001 (as amended from time to time).

The interim order is due to expire on 12 August 2010 and it is hoped that the matter can progress to a substantive hearing before that date.

However, should it not progress, the Council will need to apply to the High Court for an extension of the order and in these circumstances the Committee does not order a further review before the expiry date.

Mr Swinstead: Can I just raise one thing with Mr Hepworth? It just occurs to me in condition 5 that Schedule 1–3, and I will need to check it, is the schedule for Misuse of Drugs Act and not the Misuse of Drugs Regulations. Sorry, can we just check that?

Mr Hepworth: Of course. If I can just say that the Misuse of Drugs Act is 1971.

Mr Swinstead: It is indeed.

Mr Hepworth: I am not aware of the dates of the Regulations.

Ms Jeyasingham: Can we just adjourn for five minutes?

[Hearing adjourned at 12.01]

[Hearing reconvened at 12.13]

Ms Jeyasingham: Mr Swinstead, you just wanted to -?

Mr Swinstead: There is no issue on the point that I raised about the Misuse of Drugs Regulations.

Ms Jeyasingham: Now do have the correct decision I will read again from the paragraph:

“The Committee reviewed the conditions imposed on the last occasion. It determined that the previous condition 2 has been satisfied and is no longer necessary. It also determined that condition 3 does not impose any requirement upon the registrant and is not therefore an appropriate condition. The Committee has amended new condition 2.

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Therefore the hearing is now closed.

[Hearing concluded at 12.17 pm]