

HEARING AID COUNCIL

PROCEEDINGS

**Meeting of**

**FAST-TRACK DISCIPLINARY COMMITTEE**

held at

70 St Mary Axe  
London EC3A 8BD  
on

11 October 2007

PRESENT:

MR CHRIS HUGHES (Chair)

MR PETER ORMEROD  
MR MICHAEL BISHOP  
(Committee Members)

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MS SIOBHAN GOODRICH: Legal Assessor  
MRS JANET HAWTHORNE: Council's Solicitor  
MS AMICIE KNOWLES: Committee Administrator

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Case of: MR PETER CLARKE

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The respondent attended.

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Transcribed by Ubiquis  
Cliffords Inn, Fetter Lane, London, EC4A 1LD  
Telephone 020 7269 0370

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2 DECISION REGARDING SANCTION

3 CHAIR: Mr Clarke, we have very carefully considered this case, and the mitigation that  
4 you have put forward. The panel was impressed by the thought that you have given to  
5 this, and the serious approach you have taken. We recognise of course that you are of  
6 good character, and we consider that the approach demonstrates a proper professional  
7 understanding of your responsibilities. You have already undertaken relevant training  
8 under the auspices of your employer, and I will come on to training in a little while. The  
9 charge in this case relates to failure to provide best advice, and poor advice is always a  
10 significant concern for the Council, essentially, under two headings. First of all the  
11 clinical importance of that advice, and secondly the way that poor provision of advice  
12 opens up the possibility of exploitation of patients. In this case we are satisfied that  
13 there was no malicious intent; no desire to unfairly treat or to exploit a patient.

14 And therefore we look at the charge on this occasion as relating to clinical practice, and, as  
15 I have said, the tribunal is pleased with the approach you have taken, and the further  
16 training that you have undertaken. The tribunal would emphasise, however, the great  
17 important it places on the proper recording of relevant clinical details, whether derived  
18 from examination, but also the importance of giving the correct advice and guidance to  
19 a client, and recording that advice, so the client fully understands the situation and, in a  
20 case like this, fully understands the difficulties and potential limited benefits which flow  
21 from the provision of a hearing aid. That advice is an integral part of the clinical record,  
22 and its recording helps with the dispenser and the patient, because it ensures that the  
23 dispenser does give the advice properly, does record it, and that that will help the client,  
24 because it means that the client will have a better understanding of it.

25 In the light of these remarks, the tribunal feels that it would be appropriate if you were to  
26 give a qualifying promise to undertake five further points' worth of training, in addition

1 to your normal annual training, around outcome measures. In other words, around how  
2 one approaches the quantification and discussion of the benefits of hearing aids. Are  
3 you prepared to give that?

4 MR CLARKE: Yes.

5 CHAIR: Very well, and that training to be undertaken by 31 March next year. We now  
6 come onto the question of financial penalty. In the light of all these considerations, we  
7 believe that the appropriate financial penalty in this case is £500, and that sum to be  
8 paid within three months of today's date. I should mention in passing that in the papers  
9 before us we have seen a suggestion that the company may be considering making some  
10 reimbursement to the customer in this matter, and we would certainly encourage the  
11 company to do that. That then deals with the question of training and sanction. I  
12 understand, Mrs Hawthorne, that there is an application for costs.

### 13 DECISION REGARDING COSTS

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16 CHAIR: We have considered the application for costs made by the Council in the sum of  
17 £2,000. We notes that the costs attributable to this disciplinary process are in excess of  
18 £5,000, and we consider that, in making an application in the sum of £2,000, the  
19 Council has properly taken into account issues of the evolving nature of the disciplinary  
20 investigation, and the proportionality of the costs order to what has happened.

21 In taking into account the proposed, the application for costs, we have taken due account of  
22 the respondent's means and ability to pay. In the light of those factors and the need to,  
23 as far as possible, fairly distribute the burden of regulatory costs between the regulated  
24 profession as a whole, and an individual who has been in breach of the code, we have  
25 concluded that an award of costs in the sum of £2,000 is appropriate, and we direct it be  
26 made by instalments of, for the first five months, starting with a payment on or before

1 | 30 November, £100 per month, and thereafter £150 a month, which means 10 payments  
2 | of £150, the latest payment being on or before 31 January 2009. Thank you very much.

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[The hearing concluded]