

HEARING AID COUNCIL
PROCEEDINGS
Meeting of the
DISCIPLINARY COMMITTEE

Held at:
70 St Mary Axe
London EC3A 8BD

On:
Tuesday, 19 August 2008

PRESENT:

MR CHRISTOPHER HUGHES
(Chair)

Panel Members:
MR PETER INCE
MR MIKE BISHOP

Legal assessor:
MR DAVID GRANT

MRS JANET HAWTHORNE appeared on behalf of the Hearing Aid Council

In the matter of:
MRS MURPHY

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1 THE CHAIR: And the next matter that you will bring before us, Mrs Hawthorne?

2 MRS HAWTHORNE: The next matter is the case of Mrs Jean Murphy. Mrs Murphy is
3 not here today. Would you like me to read out the charges?

4 THE CHAIR: Yes.

5 MRS HAWTHORNE: Mrs Murphy is charged with two breaches of the Code of Trade
6 Practice. She is charged as follows: 'That you, Mrs Jean Murphy, being at all
7 the material times a Registered Hearing Aid Dispenser, registration number
8 50610, employed at all material times by Amplifon Ltd and charged as
9 followed under Section 7.1(c) of the Hearing Aid Council Act (1968) with
10 having contravened clauses 3, 5 – sorry 5 is not correct –and 9 of the Hearing
11 Aid Council Code of Practice. Charge 1. Contrary to Clause 9(a) of the Code,
12 in force at all material times:

13 1. Between 30 July 2007 and 21 January 2008 you were responsible for the
14 audioogical care of Mrs J Iona M Hicks of 1 St Colme Drive, Dalgety Bay,
15 Fife, Scotland, KY11 9LQ.

16 2. You conducted audiometry on Mrs Hicks and recorded the results of that
17 audiometry on an audiogram dated 30 July 2007.

18 3. The audiogram on 30 July 2007 failed to undertake masked bone conduction
19 at 500Hz and 1000Hz on Mrs Hicks left ear.

20 4. You failed to comply with Clause 9(a) of the Code in relation to the
21 audiometry which you conducted on 30 July 2007 in that the British Society of
22 Audiology recommended procedure for pure tone air and bone conduction
23 thresholds with and without masking in force at the time was not applied in
24 respect of Mrs Hicks such that the extent of any bone conduction response
25 from the left ear was not determined.

1 Charge 2. That contrary to Clause 3 of the Code in force at all material times, paragraphs
2 1 and 2 of Charge 1 are repeated. On 20 August 2007 you dispensed a GN
3 ReSound Plus 5 hearing aid device to Mrs Hicks:

4 3. The results of audiometry conducted on 30 July 2007 showed that Mrs Hicks required
5 power 10 to 20dB due to her conductive hearing loss in the lower frequencies
6 in order to accommodate her individual hearing loss. You failed to comply
7 with Clause 3 of the Code in relation to best advice in that (i) you dispensed a
8 hearing aid to Mrs Hicks which would not accommodate her individual loss in
9 that (a) Mrs Hicks' hearing threshold at 2kHz is outside the manufacturer's
10 fitting range for this device, (b) the device would not provide Mrs Hicks with
11 power in the lower frequencies, and (c) the device did not provide sufficient
12 scope to increase the power in the higher frequencies should Mrs Hicks'
13 hearing deteriorate any further; (ii) you failed to record the advice which was
14 given to Mrs Hicks with regard to the aid and its use.

15 THE CHAIR: And there is a statement of admission signed by Mrs Murphy, in which she
16 recites the charges and acknowledges that she is in breach of the Code. Any
17 questions from members of the committee?

18 MR BISHOP: I have no questions.

19 MR INCE: No, thank you.

20 THE CHAIR: Very well. We accept the plea and find Mrs Murphy in breach of Clause
21 9(a).

22 THE CHAIR: 9(a) of the Code. Now it falls to us to consider what the appropriate
23 sanction is in this case. There has been an indication to Mrs Murphy of the
24 likely scale of the penalties which the investigating committee considered
25 appropriate, and they are that there should be a penalty of £500 with respect to

1 each breach, and also, separate from any consideration of penalty, there is a
2 recommendation that Mrs Murphy undertake training in audiometry. Did the
3 investigating committee have any specific views as to the type of audiometry
4 training which was appropriate?

5 MRS HAWTHORNE: No.

6 THE CHAIR: No. Okay.

7 [Break]

8 THE CHAIR: Mrs Murphy, a registered hearing aid dispenser, between July last year and
9 January this year was responsible for the care of an 87-year-old lady's hearing.
10 During the course of that, she failed to follow the British Society of Audiology
11 recommended procedures with respect to her care of her patient and failed to
12 investigate bone conduction response with respect to the patient's left ear. In
13 addition, she dispensed a hearing aid which could not meet her patient's
14 hearing loss and, therefore, failed to provide best advice. To her credit, she has
15 pleaded guilty with respect to both these breaches.

16 In considering what sanction is appropriate with respect to these breaches, the
17 Committee has had in mind both the need to properly reflect the gravity of the
18 breaches and also to ensure the proper protection of the public by seeking to
19 improve Mrs Murphy's future performance.

20 With these facts in mind, we have concluded that with respect to the breach of
21 Clause 9, in failing to carry out audiology appropriately, a penalty of £500
22 should be imposed and with respect to the failure to provide best advice, a
23 penalty of £500 should also be imposed. In addition, we consider it important
24 to ensure that Mrs Murphy improve her practice and therefore we are requiring
25 that she attend appropriate courses within the next six months and provide

1 evidence of her attendance at these courses to obtain 10 CPD points in excess
2 of her annual requirement with respect to audiometry, focusing on bilateral
3 amplification solutions and hearing aid selection.

4 That, therefore, addresses the matter of the further failing and penalty. Is there
5 an application for costs?

6 MRS HAWTHORNE: There is. Can I please hand you the schedule? The application for
7 costs once again was dealt with on the basis that there'd be four matters
8 appearing for you this afternoon and this morning and in fact there are six.
9 Therefore, the projected costs per case for the 19th August figure of £906.67
10 should be reduced to £604.45.

11 Mrs Murphy is aware of this schedule. She has provided us with an income
12 and expenditure schedule, which is appended to the back of the costs
13 breakdown.

14 MR GRANT: Mr Chairman, I repeat the advice that I've given to the Committee on
15 previous occasions, namely that the Committee will need to be satisfied that the
16 costs have been reasonably and necessarily incurred in relation to this matter
17 and must also be proportionate to the subject matter of these disciplinary
18 proceedings. I think in every other respect the matters the Committee will wish
19 to consider will be fact-sensitive.

20 THE CHAIR: Thank you very much indeed. We'll now withdraw and consider.

21 [Break]

22 THE CHAIR: In this matter, there is an application for costs against Mrs Murphy in a sum
23 of approaching £3,000. We have scrutinised the costs and we are satisfied that
24 they are proportionate, that they were all fully incurred, that the chargeable rate
25 is appropriate and, accordingly, it would be proper and appropriate to award

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costs in this amount. However, we have taken into account that, to some extent at least, Mrs Murphy may have come to a view that costs at this level would not be sought and while she has not objected to any such award of costs, we consider that it would be appropriate to award costs in the sum of £2,000. Accordingly, we award costs in that sum and we direct that they be paid at £250 per month.

Thank you.
