

HEARING AID COUNCIL
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 HEARING AID COUNCIL.

**IN THE MATTER OF
MR ROGERSON**

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1 THE CHAIR: Mr Rogerson, the Committee today consists of myself, Chris Hughes, the
2 Chairman; Mr Mike Bishop; Mr Peter Ince. We are assisted by a legal
3 assessor, who is the independent advisor who advises the Committee and
4 ensures we keep our procedures correct and fair. The Hearing Aid Council
5 investigating committee is represented by Mrs Janet Hawthorne. Now, the
6 position is that – is concerned with two charges... Sorry, with a charge in the
7 letter of 16 July, and if that charge could be read, Mrs Hawthorne, please?

8 MRS HAWTHORNE: There is a typographical error, which I will refer to as I read out
9 the charge.

10 MRS HAWTHORNE: Charge one: that contrary to clause 4 of the Code, in force at all
11 material times:

12 1. On or around 20 July 2006, you were responsible for the audiological care of
13 Mr Stuart Mann of 46 Maypole Road, Ashurst Wood, East Grinstead, West
14 Sussex, RH19 3QY.

15 2. On or around 20 July 2006, you undertook audiometry of Mr Mann and
16 recorded the results on the audiogram.

17 3. The audiogram showed that in both ears Mr Mann had well-preserved
18 hearing in the lower frequencies, but had a severe to profound hearing loss in
19 the higher frequencies.

20 4. You recommended a binaural Phonak Extra 211AZBTE hearing aids, ‘the
21 aids’, in respect of this hearing loss. Acting on your advice, Mr Mann
22 purchased the aids at a cost of £3,000.

23 6. You failed to comply with clause 4 of the Code of Practice in that i) you
24 failed to recognise from the results of the audiometry which you conducted on
25 20 July 2006 that Mr Mann’s hearing loss was such that there was a real

1 prospect that aiding would not benefit him; ii) you failed to advise Mr Mann
2 that the aids might not necessarily be of benefit to him; iii) you failed to record
3 the advice which you gave Mr Mann concerning the prospects of the aids being
4 of benefit to him in his records.

5 THE CHAIR: Now, Mr Rogerson, you've signed a statement incorporating that charge
6 and agreeing the charge and effectively accepting that you're in breach of the
7 Code.

8 MR ROGERSON: Yes.

9 THE CHAIR: That's your position, is it?

10 MR ROGERSON: Yes.

11 THE CHAIR: Very well. We accept the plea with respect to the charge, so therefore Mr
12 Rogerson is in breach of Clause 4. Moving on, we need to consider Mr
13 Rogerson's mitigation, which we have in the letter dated 12 August. Is there
14 anything you'd like to add to that letter? Anything you'd like to say around the
15 letter, as it were?

16 MR ROGERSON PRESENTS MITIGATION TO THE COMMITTEE

17 THE CHAIR: Very well. We will now withdraw and consider what sanction, if any.

18 [Adjournment]

19 THE CHAIR: In this case, Mr Rogerson was responsible for the audiological care of his
20 patient, Mr Mann, in July 2006. Mr Mann had a difficult hearing loss to treat.
21 Mr Rogerson is charged with a failure to comply with Clause 4 of the Code of
22 Practice, which requires him to advise his patients in certain circumstances
23 where there is a significant prospect that aiding will not benefit their hearing.
24 In this case Mr Rogerson very properly acknowledges that he failed to comply
25 with the Code of Conduct and the root cause of this appears to be that he

1 treated the audiological issues as somewhat simpler than they were and
2 underestimated the difficult of them and overestimated the value of a fairly
3 short walk in a high street in determining whether real, substantive, enjoined[?]
4 benefits to the patient would flow from aiding given the complex physiological
5 and psychological issues around hearing loss and its remediation. This
6 relatively unsophisticated approach caused him to fail to comply with Clause 4
7 of the Code of Practice. In his mitigation, Mr Rogerson has acknowledged that
8 there were shortcomings and he would not approach a hearing loss of this
9 nature in the same way again. The committee has considered whether Mr
10 Rogerson should undergo additional further training in audiometry but, on
11 balance, has concluded that Mr Rogerson is learning the lessons from this case.
12 We have concluded that it is appropriate to impose a financial sanction. In
13 light of Mr Rogerson's plea and approach we have concluded that a financial
14 penalty of £300 should be imposed, this to be paid within 28 days of today.

15 MR ROGERSON: Thank you.

16 THE CHAIR: Mrs Hawthorne.

17 MRS HAWTHORNE: There's an application for costs.

18 THE CHAIR: Thank you.

19 MRS HAWTHORNE: Sir, the papers that I've just handed to you include the costs which
20 have been incurred by the Hearing Aid Council. Once again, because more
21 matters than we had anticipated were heard today, the figure at the projected
22 cost of the case for 19 August, which is £906.67, that must be reduced because
23 the fixed cost to the Hearing Aid Council is less because of the number of
24 cases. So that would be reduced from £906.67 to £604.45. The application

