

1 HEARING AID COUNCIL PROCEEDINGS

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3 **Meeting of the**  
4  
5 **DISCIPLINARY COMMITTEE**

6  
7 Held at:  
8 70 St Mary Axe  
9 London EC3A 8BD

10  
11 On  
12  
13 Friday, 17 April 2009

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16  
17 PRESENT:

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19 MR CHRISTOPHER HUGHES OBE  
20 (THE CHAIR)

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22 Panel Members:

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24 MR MICHAEL BISHOP  
25 MR TONY CORCORAN  
26 MR PETER INCE

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28 Legal Assessor:  
29 MR PETER JENNINGS  
30

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32 -----  
33 MR MICHAEL BOWES QC appeared on behalf of the Hearing Aid Council.  
34 MS JULIE NORRIS assisted the counsel for the Hearing Aid Council.

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36 MS SARAH CLOVER appeared on behalf of Hidden Hearing Ltd.  
37 MR MYLES MCINTOSH assisted the counsel for Hidden Hearing Ltd.

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41 **In the matter of:**

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43 HIDDEN HEARING LTD

44  
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2 THE CHAIR: In this matter Hidden Hearing, a registered employer of dispensers, are charged  
3 with three counts under clause 21 of the Code of Conduct, which were a failure to  
4 properly and reasonably deal with correspondence seeking information from them from  
5 the Registrar. It is important to emphasise that accurate clinical record making and  
6 clinical record keeping are at the heart of healthcare and are at the heart of any effective  
7 system of clinical governance and regulation of healthcare professionals. In the future  
8 regulatory regime in the Health Professions Council this will become increasingly  
9 important for regulated professionals and also failures to provide the Regulator with  
10 information can attract criminal liability. So although the Hearing Aid Council and its  
11 specific Code will soon be a matter of history the issues which we are addressing today  
12 under the old Code will have greater salience in the future and it is essential that all  
13 regulated professionals understand that as they move forward. And also that all  
14 employers of dispensers are in a proper position to be able to support their employees  
15 discharge of their clinical and professional responsibilities.

16 In this case, complaints were received from three clients of Hidden Hearing with  
17 respect to the services they had received from regulated professionals. In seeking to  
18 investigate these complaints, the Hearing Aid Council sought various records from  
19 Hidden Hearing over a period of time, these records were not forthcoming. Suddenly at  
20 the start of this year the - Hidden Hearing's ability to find records seems to have  
21 improved. We have heard with - we have listened with great attention to the submissions  
22 made by Ms Clover on behalf of Hidden Hearing. We cannot accept that the finding of  
23 this data this was unforeseen, unforeseeable, improbable. To take but two examples, in  
24 the first case the data was found by examining an end of year back-up record. Of course  
25 the point of such records is to provide security of the data in the event of loss and

1 therefore it was always foreseeable that in a back-up system there would be data which  
2 had not been - which had been lost from other places. The second case relates to a  
3 microfiche copy of data records. It is normal for those running records management  
4 systems to be aware that they have microfiche data and therefore it is foreseeable that  
5 data may be contained within such systems which are not contained elsewhere.

6 Hidden Hearing are a very considerable employer. And we are satisfied that they  
7 have been making strenuous attempts to introduce an effective, comprehensive and  
8 reliable records management system. We are also satisfied that there was no deliberate  
9 misleading or delay in part of individual staff members of Hidden Hearing in dealing  
10 with these requests. However, it seems to the Committee that there were significant  
11 failings which were only very recently resolved and a more comprehensive and  
12 thoughtful approach to findings these records would have been successful at an earlier  
13 date. In the circumstances we are satisfied that admonition is not a sufficient and  
14 appropriate sanction and we impose a penalty of £1500 in respect of each charge.

15 *(Committee withdraws)*

16 THE CHAIR: In this case there is an application for costs from the Hearing Aid Council in the  
17 sum of approximately £20,000 and the counter application from the Respondent company  
18 in a sum adjacent to £40,000. We have considered in the course of the litigation the  
19 conduct of the parties and the relevant law, and we have concluded that on this occasion  
20 the appropriate Order is that there should be no Order as to costs. Thank you. That  
21 concludes the hearing. Thank you very much.

22 *(End of Hearing)*