

HEARING AID COUNCIL PROCEEDINGS

**Meeting of the  
DISCIPLINARY COMMITTEE**

Held at:  
70 St Mary Axe  
London EC3A 8BD

On

Wednesday, 18 March 2009

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PRESENT:

MR HUW VAUGHAN-THOMAS  
(THE CHAIR)

Panel Members:

MR MICHAEL BISHOP  
MR TONY CORCORAN  
MR MARK GEORGEVIC  
MR PETER INCE

Legal Assessor:  
MS WENDY OUTHWAITE

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MR HYWEL JENKINS appeared on behalf of the Hearing Aid Council.  
MR STUART PARKER assisted the counsel for the Hearing Aid Council.

MR STEPHEN BARNES represented himself.

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**In the matter of:**

MR STEPHEN BARNES

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1 **Wednesday, 18th March 2009**

2 THE CHAIR: The Disciplinary Committee has considered the case brought by the HAC against  
3 Mr Stephen Barnes, a registered hearing aid dispenser, arising out of a visit he made on  
4 his employer's instructions to a Mrs Nora Wallace on or around 7th August 2007. Mrs  
5 Wallace was at the time 91.

6 The Disciplinary Committee feels it appropriate to rehearse some of the facts that  
7 were accepted on both sides. The visit arose out of a campaign by Mr Barnes' employers.  
8 Secondly, the visit should not have been made as Mrs Wallace had earlier that year seen  
9 her regular RHAD, Mr Brian Tibbs, who was employee of the same company and who had  
10 checked her hearing aid and adjusted the volume. Thirdly, Mr Barnes was accompanied  
11 by his area manager Mr Winteridge who could have, had he wished, terminated the visit.  
12 At dispute was the issue of whether Mr Barnes should have himself terminated the  
13 appointment and whether he should have left recommendations for an alternative hearing  
14 aid.

15 The HAC maintains that the test of a high standard of ethical behaviour required  
16 that Mr Barnes should have terminated the appointment and referred Mrs Wallace to Mr  
17 Tibbs. Mr Barnes argues that for good customer relations purposes, he continued with  
18 the appointment and left a recommendation for a possible upgrade with Mrs Wallace to  
19 discuss with her son. At no time did he put pressure on Mrs Wallace to buy a new hearing  
20 aid.

21  
22 The panel have given careful consideration to the evidence presented in this  
23 case and the statements by the three witnesses who attended. . The panel noted that a  
24 number of issues of company procedure arose: the making of the appointment; the lack  
25 of any prior knowledge of the person being visited; the role of the area manager and the  
26 system of client relationship management and record keeping operated by the company.

1 Mr Barnes stated in the course of his evidence that he had relied on company procedures  
2 for information on his visit to Mrs Wallace to reach Mr Tibbs, and did not himself take  
3 steps to directly brief Mr Tibbs.

4 The charges before the panel are in respect of charge 1, that Mr Barnes failed to  
5 maintain a high standard of ethical behaviour in relation to his attendance upon Mrs  
6 Wallace, in that despite becoming aware that Mr Wallace was under the audiological care  
7 of another dispenser, he proceeded to demonstrate and recommend an alternative  
8 hearing aid. Also, despite becoming aware that Mrs Wallace was confused, elderly and  
9 without a family member present, he continued the appointment with her and proceeded  
10 to demonstrate and recommend an alternative hearing aid. The panel have taken advice  
11 from their legal assessor and have been advised that they should adhere to the strict  
12 wording of these charges.

13 The panel sympathise with the motivation behind Mr Barnes' desire to proceed  
14 with the appointment, but consider this was on balance an error of judgment. The age of  
15 the lady concerned, her health and the fact that she was under the care of another RAHD  
16 from the same company were relevant factors. Equally relevant in the panel's  
17 consideration was the fact that Mr Barnes was at all times under the direct supervision of  
18 his line manager who was present throughout, and who it is accepted could have  
19 terminated the interview. It would, in the panel's view, have been best practice for Mr  
20 Barnes to have contacted the other dispenser, Mr Tibbs, immediately following his  
21 appointment with Mrs Wallace. However, this does not form part of the charges brought  
22 by the HAC and therefore the panel did not find the charges under Clause 1 proved.

23 Turning to the charges under charge 2, that Mr Barnes failed to comply with the  
24 terms of Clause 3 of the Code in that he failed to provide the best possible advice for Mrs  
25 Wallace in that the difference in manufacturer specifications between the first and second  
26 devices were so slight that second device, had it been dispensed and fitted would not

1 have afforded Mrs Wallace significant additional benefit and secondly that, the first device  
2 about which Mrs Wallace had no complaint was suitable for her hearing loss. The panel  
3 did not consider that they have heard sufficient evidence from HAC to find the charges  
4 proved.