

HEARING AID COUNCIL PROCEEDINGS

**Meeting of the  
DISCIPLINARY COMMITTEE**

Held at:  
70 St Mary Axe  
London EC3A 8BD

On  
Tuesday, 24 March 2009

-----  
**PRESENT:**

MR CHRISTOPHER HUGHES OBE  
(THE CHAIR)

Panel Members:

MR MICHAEL BISHOP  
MR HUW VAUGHAN THOMAS  
MR TONY CORCORAN  
MR PETER ORMEROD

Legal Assessor:  
MR NIGEL SEED QC

-----  
MR HYWEL JENKINS appeared on behalf of the Hearing Aid Council.  
MRS JANET HAWTHORNE assisted the counsel for the Hearing Aid Council.

MR MARK SHAW appeared on behalf of Specsavers Hearcare Limited.

-----  
**In the matter of:**

COLWYN BAY SPECSAVERS HEARCARE LIMITED

Transcript produced by Sellers Legal Services  
76 Chancery Lane, London WC2A 1AA  
Tel: +44 (0)20 7405 4512

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48

**Tuesday, 24th March, 2009**

1  
2 THE CHAIR: Between November 2006 and September 2008 SpecSavers Colwyn Bay were  
3 the employer of a registered hearing aid dispenser. There were difficulties in relation to  
4 his employment for a period of time and the difficulties were such as to create concerns  
5 in the employer and some difficulty in understanding how to resolve them. They adopted  
6 various approaches, culminating in an investigation from the national SpecSavers  
7 company, which came to conclusions which then in the light of new evidence were set on  
8 one side and a further investigation held which concluded in August 2008 with the  
9 recommendation that the employee be removed.

10 At a board meeting on 15th September 2008, the directors of Colwyn Bay  
11 SpecSavers resolved to remove the employee and director from the company, notified  
12 Companies House that he had ceased to be a director, notified the Hearing Aid Council  
13 that he had ceased to be an employee, but did not, despite the fact that as a company  
14 they resolved to do, notify the Hearing Aid Council of the circumstances of his removal or  
15 the concerns which they now had and which they felt had given rise to a duty on the  
16 employing company under Clause 2 of the Code of Conduct to notify the Hearing Aid  
17 Council of unethical conduct.

18 An internal appeal was started by the dispenser but not carried to conclusion and  
19 this was known to the employer by the middle of October 2008. The duty to notify the  
20 Hearing Aid Council was not discharged until January 2009 and the employer  
21 subsequently fully co-operated with the Hearing Aid Council and has reviewed its  
22 procedures on a national level to ensure that such inadvertent errors do not occur again.  
23 The Disciplinary Committee has not heard of any unfortunate consequences of the delay  
24 in notification of the concerns of the company.

25 In professional regulation, it is increasingly recognised that it is important to

1 develop an open culture which addresses difficulties and problems in performance at an  
2 early stage and which ensures that the Regulator is appropriately informed of concerns  
3 which may need to give rise to regulatory action. In this case the company attempted  
4 systematically to discharge its obligations properly, but through inadvertence failed to  
5 notify the Hearing Aid Council.

6 The Disciplinary Committee is satisfied that to admonish the employer is the  
7 appropriate sanction in this case. Furthermore, the Disciplinary Committee would  
8 encourage dispensers and employers of dispensers to consider carefully their obligation  
9 under Clause 2 and the need to ensure at an appropriate stage that when they have  
10 properly grounded concerns about the performance or conduct of a dispenser which may  
11 need at some stage regulatory action, that these concerns are appropriately shared with  
12 the Hearing Aid Council and that subsequently, the outcome of an investigation, whether  
13 indicating those concerns are fully established or not, can then be communicated to the  
14 Council. The early involvement of the Regulator in addressing issues of significant  
15 concern will be of advantage to the entire profession in ensuring that it is ready to meet  
16 its obligations for the future.

#### 17 **DECISION ON COSTS**

18 THE CHAIR: In this case costs have been incurred by the Hearing Aid Council of, identified as  
19 a figure in the region of £5,000. Clearly because the substantive case for hearing today  
20 did not go ahead we have sat quite briefly on one plea of guilty, we have concluded that  
21 an equitable figure would be costs of £2,000 so we direct payment of that sum.