

HEARING AID COUNCIL PROCEEDINGS

**Meeting of the
DISCIPLINARY COMMITTEE**

Held at:

Inglewood Manor
Badgers Rake Lane
Ledsham, South Wirral
Cheshire, CH66 8PF

On

Tuesday, 8th September 2009

PRESENT:

(THE CHAIR)

CHRIS HUGHES

Panel Members:

PETER ORMEROD

MICHAEL BISHOP

TONY COCORAN

Legal Assessor:

MR DAVID MARSHALL

MS JULIE NORRIS appeared on behalf of the Hearing Aid Council

Assisted by MISS KNOWLES

MR IAIN DE WIT represented himself

In the matter of:

MR IAIN DE WIT

Transcript produced by Sellers Legal Services

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Tuesday, 8th September 2009

(The Panel retired to consider their decision)

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3 THE CHAIRMAN: In this hearing, the Disciplinary Committee has been considering the
4 conduct of Mr Iain Maurice de Wit, a registered Hearing Aid Dispenser, who
5 between 13th November 2006 and 15th September 2008 worked at Specsavers in
6 Colwyn Bay. There were finally in this Hearing nine substantive matters, which it
7 fell to us to consider in terms of determining whether these acts had occurred, and
8 then we need to consider the implications of those acts or events.

9 The first matter was an event some time in December or January 2006/2007,
10 when it was alleged he brushed his forearm against the bottom of a female
11 colleague in the kitchen area of the store. We have considered both accounts of
12 this and this is a matter where we are satisfied that the event did occur, as Miss
13 Roberts indicated it did. So we find part 1 proven. Shortly after this, there was a
14 conversation between Mr de Wit and Mr Byrne and two other gentlemen who are
15 part of the company. It is alleged that Mr de Wit was then warned regarding his
16 conduct and advised to take more care with respect to his future conduct towards
17 staff. Mr de Wit describes this as a very unpleasant interview and that he
18 repeatedly asked to be told precisely what he was being warned about. We have
19 heard Mr de Wit's evidence and we have heard Mr Byrne. We have also had the
20 opportunity of seeing the transcript of a Disciplinary Hearing held by Specsavers. In
21 his evidence, Mr Byrne stated that Mr de Wit was warned about physical contact
22 with members of staff. In the Specsavers interview, Mr de Wit is quoted as saying,

1 in connection with this issue, "I am not stupid enough to touch people
2 inappropriately." The Disciplinary Committee is satisfied that, in the earlier part of
3 2007, Mr de Wit was warned by his colleagues in Specsavers not to have physical
4 contact with members of staff. We therefore find the second charge proven.

5 Again in 2007, there came an occasion when Mr de Wit was examining Miss
6 Roberts' ear and, in his account, he states that he was explaining the absence of
7 true symmetry in the human body, giving examples of differences between the
8 different paired features of the human anatomy. His response, according to the
9 charge, he said, one ear is higher than the other, and the one leg is longer than the
10 other. It is alleged that he then pointed to her chest and stated that "one of those is
11 bigger than the other." Again, we have heard the evidence of Miss Roberts and of
12 Mr de Wit. It is clearly admitted by Mr de Wit that he did say this and that no malice
13 was intended. We are, therefore, entirely satisfied that this event took place.

14 Again, in early 2007, he pointed to a female colleague descending the stairs,
15 pointed at her chest and said, "I can see the pattern of your bra through your shirt"
16 and she responded, "You shouldn't be looking." Again, this matter is admitted and
17 we find the event took place. In a subsequent incident, he tried to massage Miss
18 Parry's shoulder and she told him to get off. This is admitted. He said that, "this is
19 a little thing I have done all my life", and in my reasons, I will be coming to this
20 feature of the case again. So all matters up to and including five are found proven.

21 The sixth matter relates to an examination he made of the ear of a
22 colleague, Miss Amrit Sekhon, who was the daughter of one of his co-directors. It is

1 | alleged that, while checking her ears, he started to twirl her hair around his fingers
2 | and commented that he thought she had beautiful hair. We have had the benefit of
3 | a signed witness statement of truth from Miss Sekhon and we have admitted that
4 | statement in evidence. We have also had the opportunity of hearing Mr de Wit's
5 | account of that event. While we are satisfied that he made the comment that she
6 | had beautiful hair, or words to that effect, from the evidence it was not possible to
7 | conclude that there was any twirling of the hair and we do not as a whole find this
8 | allegation charged and it plays no further part in our considerations. The final set of
9 | charges, charges 7, 8 and 9, relate to an employee of Specsavers, a Miss Jackie
10 | Hall. She was a new member of staff at the turn of the year, 2007/2008, and on her
11 | account, after about six to eight weeks, Mr de Wit moved from being friendly to
12 | kissing the back of her hand on every available opportunity, and the charge 7 is that
13 | he would kiss the back of her hand, at every available opportunity. We have heard
14 | evidence of both parties on this and we are satisfied that this was an event which
15 | happened with great frequency and we find this charge proven. Charge 8 is that
16 | when Miss Hall was working at the reception desk, on a number of occasions Mr de
17 | Wit went behind the desk and rubbed his bottom against hers. We have heard
18 | evidence about this from both parties. We have also heard Miss Hall's evidence as
19 | to the fact that there are other male members of staff in the shop who also have
20 | occasion to go behind the reception desk when she was there and such events
21 | never happened with them. Accordingly, we find that this set of behaviours
22 | occurred. The ninth charge is that, on an occasion when she was working at the

1 computer, Mr de Wit grabbed her shoulders and squeezed them. And again, this
2 we find proven.

3 We now come onto the consideration of what the significance of these events
4 are. We have heard evidence from three women, Lyn Roberts, Natalie Parry and
5 Jackie Hall. We find them all witnesses of truth and we find their evidence clear
6 and compelling. They all found the attentions unwanted. Miss Roberts indeed was
7 outraged at the final comment - the pointing at her breasts and saying "one of those
8 is bigger than the other," particularly since it had taken place some time after Mr de
9 Wit had been warned about physical contact with members of staff. While this was
10 not physical contact, it is clearly a related issue of inappropriate physical comment.
11 Mr de Wit has said at various times that all this behaviour was innocuous, innocent,
12 and he has done it all his life. He said "a leopard does not change its spots."

13 The difficulty in considering this is that he had clear warning from Mr Byrne,
14 from the responses of Miss Parry and Miss Roberts that this sort of conduct was
15 unacceptable and yet he embarked upon a course of conduct with Miss Hall. Miss
16 Hall was a new member of staff at the start of 2008, and it is the conclusion of the
17 Disciplinary Committee that Mr de Wit became more assertive towards her once he
18 had identified her in his own words as "my little mouse." She was new and she was
19 relatively isolated and put up with this conduct for a period of time. It was an almost
20 daily occurrence and, as she said, she had no difficulty with any other male
21 members of staff. These matters came to prominence when she put in a complaint
22 shortly after there had been a disciplinary hearing between Mr de Wit and a senior

1 member of staff of Specsavers, in which he had been warned and given an offer of
2 future training to help him. Mr de Wit at various times has indicated that he thinks
3 he has been set up and that his conduct was minor and that there is some sort of,
4 effectively, conspiracy against him. While it is true that there was a flood of
5 complaints in written form which came out, and clearly there is coordination
6 between the individuals concerned, this does not betoken a conspiracy. It is the
7 view of the Committee that what happened was there became an increasing
8 awareness among the ladies in this shop of Mr de Wit's conduct which they had all
9 found unacceptable and recognition that these matters were, in their view, of so
10 much gravity that they ought to be properly addressed by Specsavers.

11 We are therefore entirely satisfied that these events occurred. We are
12 satisfied that the women to whom these events occurred did not desire to have this
13 sort of contact and that it was not appropriate. It was not, in the words of Miss
14 Jackie Hall, "conduct you would expect of a professional." Mr de Wit had been
15 warned repeatedly but it seemed to the Disciplinary Committee that Mr de Wit
16 assumed a right to a degree of physical contact which caused distress and
17 embarrassment to the ladies concerned, and this seemed to suggest a degree of
18 arrogance and inappropriate conduct in respect to women and his attitude towards
19 them. We have considered his own evidence as to his upbringing and the helpful
20 evidence of his character witnesses and the admission, broadly made by all of
21 them, that Mr de Wit's actions and behaviours are somewhat idiosyncratic. It
22 seems to this Committee, however, that proper, ethical, professional conduct takes

1 full account of the impact of the professional's behaviours on other people,
2 especially on people who are vulnerable, weak, or in a position less prominent and
3 powerful than that of the professional, and the heart of the professional, ethical duty
4 is to have due regard to the rights of others and the professional's obligations to
5 them. We therefore find that Mr de Wit has fallen short of his obligation to uphold a
6 high standard of ethical conduct in his business affairs so we find breach of Clause
7 1 with respect to those incidents that we found proven.

8 *(The Committee retired to consider sanction)*

9 THE CHAIRMAN: The Panel has now had the opportunity to consider the submissions of
10 Mr de Wit and the advice of Mr Marshall, the Legal Adviser, on what sanction if any
11 is appropriate to impose in this case. We have paid due regard to Mr de Wit's
12 interests and also to the need to protect members of the public, whether they be
13 employed within the Healthcare companies or whether they be patients, from
14 distress which could arise from Mr de Wit's conduct, as exemplified by the series of
15 incidents we have been considering over the last two days. In looking at the need
16 to protect the public, we also have due regard to the need to uphold the reputation
17 of the profession and to maintain proper professional standards. Over the last two
18 days, and in his response to the findings, Mr de Wit has continued to minimise what
19 he has done and its impact on other people. At every step he has not
20 acknowledged that there is a problem. He has demonstrated a lack of insight and
21 the lack of true empathy for the feelings of others and lack of ability to recognise

1 that there are lines which should not be crossed within the professional
2 environment.

3 In coming to a view as to what sanction if any is appropriate, the Committee
4 has had to consider Mr de Wit's conduct, attitude and possible future conduct. The
5 Committee has concluded that an admonition would not be effective, nor indeed
6 would a financial penalty. Given Mr de Wit's attitude, it seems unlikely that a period
7 of suspension, without more, would lead Mr de Wit returning to the profession,
8 committed and capable of discharging his ethical obligations towards those around
9 him. It is therefore inevitable that in order to protect the public interest and to
10 maintain standards and reputation of the profession, it is necessary to erase Mr de
11 Wit from the Register of Hearing Aid Dispensers. This is necessary and
12 proportionate in order to maintain those proper public interests which we are
13 statutorily required to protect, and on this occasion the private interest of Mr de Wit,
14 in being able to pursue his career, is far outbalanced by the need to protect the
15 public.

16 *(The issue of costs has been adjourned to a later date.)*