

1 HEARING AID COUNCIL PROCEEDINGS

2 **Meeting of the**
3 **DISCIPLINARY COMMITTEE**

4 Held at:

5 70 St Mary Axe

6 London EC3A 8BD

7 On

8 Friday, 4th December 2009

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10 **PRESENT:**

11 (THE CHAIR)

12 MR CHRISTOPHER HUGHES OBE

13 **Panel Members:**

14 MR PETER INCE

15 MR DAVID PYLE

16 **Legal Assessor:**

17 MR ALAIN GOGARTY

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19 MR JOHN HARDING appeared on behalf of the Hearing Aid Council.

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21 MS AMICIE KNOWLES clerk to the Disciplinary Committee

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23 -----

24 **In the matter of:**

25 MR ORMROD

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1 **Friday, 4th December, 2009**

2 CHAIR: This meeting of the Disciplinary Committee of the Hearing Aid Council consists of myself, Chris
3 Hughes Chairman, Mr Peter Ince and Mr David Pyle, assisted by Mr Alan Gogarty as the Legal
4 Assessor. The Hearing Aid Council is represented by Mr John Harding, assisted by Miss Amicie
5 Knowles.

6 There is one case for consideration today, that of Mr Peter Ormrod who is present and representing
7 himself. Now, Mr Ormrod, I understand you have had a discussion with the Legal Assessor and
8 he has explained the procedure. In that case I think it falls on Mr Harding to read the charges.

9 MR HARDING: Perhaps then if I could read the charge. The charge is as follows; breach of code, 1A of
10 the Hearing Aid Council Code of Practice 2008. The particulars of Breach 1; in 2009 you failed to
11 cooperate with another regulator, namely the General Medical Council in relation to its Fitness
12 to Practice inquiry into Professor Al Shihabi. 2; in or around 2006 you made payments for
13 patient referrals to a registered medical practitioner, namely, Professor Al Shihabi.

14 CHAIR: Mr Ormrod, this is the point at which tell us whether you accept the charges or dispute the
15 charges?

16 MR ORMROD: I accept the charges.

17 CHAIR: In that case, we formally find the charge proved, and now move on to consider it.

18 *(The panel listen to evidence from the HAC and the Registrant)*

19 *(The Panel retire to consider sanction)*

20 CHAIR: In this case, Mr Peter Ormrod has pleaded to a breach of paragraph 1A of the Code of Practice at
21 the Hearing Aid Council, which is a failure to maintain a high ethical standard in normal business
22 practices.

23 The breaches were, that in or around 2006 he made payments to patient referrals to a registered
24 medical practitioner, Professor Al Shihabi. And in 2009, he failed to cooperate with the GMC in

1 relation to its Fitness to Practice inquiry into Professor Al Shihabi.

2 We have heard extensive explanation and background information from Mr Ormrod. It appears
3 that as part of his general practice as a Hearing Aid Dispenser he receives referrals from the
4 audiology department from Lister Hospital and there was an expectation from that department
5 that he should pay a fee, or donation, to the department. This money would be in cash. While
6 this is not a matter of charge in these proceedings it must be a matter of concern for the proper
7 governance of the Lister Hospital and we direct the Registrar of the Council to provide the
8 relevant NHS trust with copies of the papers and the transcript of this hearing.

9 Out of this practice a relationship arose with Professor Al Shihabi who started referring difficult,
10 hard to fit patients to him. On Mr Ormrod's evidence, Mr Al Shihabi never solicited payments
11 but he did receive vouchers which Mr Ormrod decided to send to him. During 2006, a comment
12 from Mr Ormrod to the parents of one of his patients to the effect that if he dispensed a further
13 pair of hearing aids to their child they should not tell Professor Al Shihabi caused those
14 individuals to be concerned and at some stage they made a recording of their conversation with
15 Mr Ormrod. As a result of their concerns they referred the conduct of Professor Al Shihabi to
16 the General Medical Council, who commenced an investigation. A hearing of the case before
17 the General Medical Council was set for the first week of June 2009. A Witness Summons was
18 served on Mr Ormrod. It is clear that as late as the middle of May, Mr Ormrod was intending to
19 attend and give evidence at that GMC hearing although he was clearly reluctant to do so and
20 very strongly influenced by Professor Al Shihabi with whom he was in constant contact during
21 these months. Mr Ormrod negotiated with the solicitor for the General Medical Council not to
22 attend on the first day but to attend on the second day, the 2nd June. He returned to the UK
23 late on June 1st and in a telephone conversation with Professor Al Shihabi was prevailed on not
24 to attend the hearing the following day because in Professor Al Shihabi's view it was no longer

1 necessary. This as Mr Ormrod freely admitted was very welcome to him and he embraced the
2 opportunity not to obey the witness summons with alacrity. As a result of his failure to obey
3 the witness summons some of the evidence which would have been before the GMC hearing
4 was no longer admissible. Accordingly, Mr Ormrod's conduct in failing to obey a court order,
5 failing to attend the GMC hearing had a significant, a potentially important effect on the course
6 of that hearing. The GMC raised his failure to attend with the Hearing Aid Council as a matter of
7 concern.

8 Mr Ormrod is a registered professional. He has obligations to behave in an ethical way. He has
9 obligations to act as a serious and responsible member of society which goes with and is part of
10 the general professional obligations. With respect to the making of payment, we are satisfied
11 that Mr Ormrod not only failed to maintain a high ethical standard by making those payments
12 but clearly knew that really they were not the sort of payments he should be making. With
13 respect to the non-attendance at the GMC hearing we accept his account that he was very
14 reluctant to attend and seized the opportunity not to attend. In so doing, in failing to contact
15 the GMC on 2nd June and ensure that in truth his attendance was no longer necessary he did
16 not act in the way a registered professional should do. He fell far short of the ethical standards
17 which should prevail.

18 In considering what sanction should be applied we have considered what is an appropriate response
19 given the gravity of the circumstances, the impact of his conduct and the need to maintain
20 confidence in the profession and in the system of regulation. We are satisfied that an
21 admonition would be not a sufficient and appropriate sanction. There was clearly in part a
22 financial motivation behind his activities since in essence these payment helped secure goodwill
23 and helped secure continuing referrals to him. However, the gravity of his conduct is not
24 something which can be properly sanctioned by a financial penalty alone. We have considered

1 carefully and come to the conclusion that in the light of all the circumstances and Mr Ormrod's
2 mitigation that the minimum sanction which is sufficient is a suspension.

3 Accordingly, we direct suspension from the Register for two months and we also impose a financial
4 penalty of £3,000. In so doing we have fully taken account of Mr Ormrod's frankness before us
5 and his prompt admission of his breach. Mr Harding is there a further application?

6 MR HARDING: I would seek to apply for costs pursuant to Rule 7 sub paragraph (vi) of your Disciplinary
7 Rules. Miss Knowles will hand to you a breakdown of the legal costs in terms of preparing and
8 presenting this case before you today. They don't include the administrative costs.

9 CHAIR: There is an application for costs in the sum of £1,672 which in broad terms is four hours
10 preparation and costs in preparing the case and then preparation for the hearing and the
11 hearing itself presumably, so another five hours?

12 MR HARDING: Yes.

13 CHAIR: Mr Ormrod, what do you say to the application for costs? You have seen this before, haven't
14 you?

15 MR ORMROD: Yes.

16 CHAIR: Are there any points with respect to the application that you dispute?

17 MR ORMROD: No.

18 *(Panel adjourn to consider the issue of costs)*

19 CHAIR: In this matter there is an application for costs in the sum of £1,672. There is no objection to
20 those costs from Mr Ormrod, having considered the amount of costs, the way it is incurred and
21 the gravity of the matters which are put before the Disciplinary Committee today the Committee
22 is satisfied that these costs are properly incurred and they are proportionate to the issues
23 raised. The Committee is therefore satisfied that costs in the sum of £1,672 should be awarded.
24 While the total sums awarded today are £4,672 we have no information as to any capital or

1 savings which Mr Ormrod has. We direct payment of these sums within 28 days. If he is in
2 difficulties over such payment he should approach the Registrar of the Council and negotiate a
3 period for a longer period for payment. I think that concludes the business for today.