

Treating consumers fairly and safely: statement of regulatory intent 2007-9

Background

The Hearing Aid Council is the statutory body that registers and regulates individuals and organisations involved in dispensing hearing aids in the UK. The Council exists because dispensing (assessing the nature and extent of a person's hearing loss, advising on suitable hearing aids to adjust for this loss, selling and fitting aids and helping individuals to adjust to using an aid) creates risks to consumers that the Government believes should be addressed through regulation. These risks arise from the clinical work involved in dispensing a hearing aid, because of the highly technical nature of hearing aids and because of the perceived risk of vulnerability of hearing aid clients. The Council's regulations set out minimum standards of practice for dispensers and employers to mitigate the impact of these three risks on consumers.

What is a statement of regulatory intent?

This statement of regulatory intent sets out the Council's position in relation to how it regulates dispensers. In particular it sets out what we hope to achieve through regulating: the objectives or principles underlying the Council's regulations. It sets out where we want to focus our work and why these are our areas of concerns. It sets out how we intend to raise standards in these areas: the work we intend to carry out.

This statement of regulatory intent does not replace the Council's regulations. Dispensers and their employers are required in law to comply with all of the standards we set, as well as other laws and regulations covering clinical and commercial practices.

What are we trying to achieve?

The Hearing Aid Council wants to ensure that consumers are treated fairly and safely when they buy hearing aids from a UK dispenser. To do this, we need to ensure:

- dispensers maintain good **clinical standards**: their knowledge is up to date, they work within their area of experience and always work in a safe and effective way;
- dispensers and their employers **treat consumers fairly**, through being open with consumers about what hearing aids are recommended and on what terms and by enabling consumers to make informed choices about managing their hearing loss;
- employers take appropriate **responsibility** for the work of their dispensers and those training to be dispensers, ensuring they comply with our standards and with other laws and regulations governing their clinical and commercial practices, can identify when standards are not met and take appropriate action to rectify this; and
- there is an open, honest and transparent **relationship** between the Council and those it regulates.

Why are we trying to achieve this?

There are other objectives underlying the Council's regulations. But the four objectives outlined above are where the Council wants to focus its activities. We are focusing on these four objectives because they:

- are key to ensuring our overall aim: that consumers are treated fairly and safely when they buy hearing aids from a dispenser in the UK;
- address the greatest areas of risk of harm to consumers; and
- will enhance current standards across the industry.

The Hearing Aid Council has published information on what work it wants to do to improve standards. This is set out in documents such as our corporate plan, and includes work around improving how dispensers are trained and improving how consumers are enabled to make informed choices. It has worked with others in developing this statement of regulatory intent.

The Hearing Aid Council has published information on poor performance across the dispensing industry. This is based on information we collect when individuals are working towards registering with us ie they are being trained to be dispensers. It is information we collect each year when people register and re-register with us. This information suggests that dispensers tend to be aged over 35, and tend to be men. It suggests variable standards of dispenser training and supervision. There are different levels between training companies of supervision of trainees and in the number of trainees who pass their exams first time. There are issues with how trainees demonstrate they have met our requirements. It also suggests that a number of dispensers do not keep us up to date on where they live or for whom they work, making it difficult for us to contact them when needed. Finally, it suggests that we do not produce information that is helpful to consumers, dispensers or employers.

It is also information we collect when we investigate complaints made by consumers and when we take disciplinary action against dispensers and their employers. This information suggests that most complaints:

- are made by consumers. This is different to other healthcare professions, where the majority of complaints are made by employers or by professionals themselves;
- are made by elderly women who live alone;
- are made by consumers who have used aids before;
- are by consumers who want a refund: they are not satisfied with the service they received or their experience of using the aid dispensed or because their expectations have not been met;
- are likely to be made about dispensers whether they have been practising for a short or long time; and
- are made against male rather than female dispensers.

This information suggests that the areas of poor performance across the industry are the same as those areas where there is greatest risk of harm to consumers.

What work will we do to achieve this?

Achieving the four objectives outlined in this statement of regulatory intent will involve dispensers and their employers making improvements to the quality of their work. It will involve employers and the professional bodies taking responsibility for assessing the quality of dispensing and taking appropriate action where standards are not being improved or met. It will involve the professional bodies taking a more substantive role in advising dispensers on how to meet the obligations placed on them by our regulations.

The Hearing Aid Council will advise, support and work with others where they are focused on achieving the four objectives set out in this statement of regulatory intent and do so to ensure that consumers are treated fairly and safely when they buy hearing aids in the UK. The Hearing Aid Council intends to work in four areas to achieve the objectives set out in this statement of regulatory intent. These four areas are set out overleaf.

We will work to achieve the objectives set out in this document by:

- producing **information** that enables consumers to make informed choices and improves how dispensers and their employers understand and comply with the requirements placed on them by the Council's regulations.
- improving how we **monitor** performance against our standards by dispensers and their employers;
- changing how dispensers develop and maintain their skills, through **training** and continued professional development;
- using the Council's current **enforcement** powers more effectively and improving self-regulation within the industry.

The Hearing Aid Council has worked with professional bodies, dispensers and their employers, consumer advocacy groups and others in the development of this statement of regulatory intent. This was important work. It ensures that everyone involved understands why we are focusing our work on the four objectives set out in this document, what is expected of them and how the Council will work to improve standards. It also ensures that everyone – dispensers, their employers and consumers – understand what will happen if standards do not improve.

The Hearing Aid Council cannot improve standards on its own. It needs to work with professional bodies, dispensers and their employers, consumer advocacy groups and others to achieve the objectives set out in this document. In particular, the Council needs to support, encourage and facilitate the professional bodies as they

develop their capacity and competences in the work they do for and on behalf the dispensing profession. For its part, this statement of regulatory intent sets out where the Council will focus its work to achieve the objectives set out in this document and thereby improve standards.

The table in the appendix to this document sets out specific areas of work for the Council. This is focused work, intended to help us meet the four objectives set out in this document. It sets out our work through to March 2009, when we will transfer our responsibilities to other regulators. The Council will measure its success in meeting the four objectives set out in this document by how well it does in each of these areas of work. It will report regularly on progress towards meeting these objectives, so that dispensers and their employers, consumer advocacy groups and others know what progress is being made and what further work is needed. By doing this work, we hope to achieve our overall mission: to ensure that consumers are treated fairly and safely when they buy hearing aids in the UK.

Appendix – our work to improve standards and meet our objectives

	<i>Clinical standards</i>	<i>Treating consumers fairly</i>	<i>Management responsibility</i>	<i>Relationship between the Council and those it regulates</i>
Information	<p>Publish good practices guides in areas where there is current poor performance, including: best advice, audiometry and record keeping,</p> <p>Encouraging professional bodies as they work to develop clinical skills and knowledge of their members.</p>	<p>Publish information to that helps consumers when making decisions about managing their hearing loss.</p> <p>Publish information in different ways and through consumer advocacy groups.</p> <p>Ensure dispensers know where to get information on consumer protection regulations.</p>	<p>Improve understanding of management responsibility requirements under Council's regulations.</p> <p>Supporting the professional bodies as they prepare the industry for changes in how they are regulated.</p> <p>Produce better information on disciplinary cases, so that dispensers can learn how to address poor performance and to help consumers make choices.</p>	<p>Improve regular communication with dispensers.</p> <p>Continue to attend professional body and other meetings to get message out as wide as possible.</p> <p>Ensure all dispensers and employers understand why Council needs up to date information including publish IC bulletin.</p>
Monitoring	<p>Use CPD audits and complaint information to identify poor standards across the industry.</p> <p>Routinely request NOAH programming specification when investigating complaints against dispensers.</p>	<p>Encourage professional bodies to use customer satisfaction surveys.</p> <p>Work with other regulators to identify areas of poor performance.</p>	<p>Make better use of information on complaints and disciplinary cases to identify where poor standards may be result of management responsibility.</p>	<p>Make better use of Council's data to understand where and why problems arise.</p>

	<i>Clinical standards</i>	<i>Treating consumers fairly</i>	<i>Management responsibility</i>	<i>Relationship between the Council and those it regulates</i>
<i>Training</i>	Support professional bodies focus training and CPD in areas of greatest need.	Ensure dispensers and companies understand what is expected of them and how they might use training to improve standards.		
<i>Enforcement</i>	Consider using clause 12 where poor standards are company-wide. Using qualifying promises to ensure training where dispenser performance is low.	Encourage self-regulation and enforcement by professional bodies and employers. Make referrals to other regulators, including trading standards, Office of Fair Trading and the Advertising Standards Authority.	Consider using current inspection and direction powers if training systems do not improve. Considering using clause 1(a) where companies fail to comply with other laws and regulations.	Use thematic ICs and IC bulletins.
<i>Current regulations where performance is poor*</i>	Clause 3 – best advice Clause 5 – medical referral Clause 9 - audiometry	Clause 3 – best advice Clause 11 – fair terms Clause 18 - servicing	Clause 12 – management responsibility	Rule 9 – up to date registers Clause 21 – responding to requests following complaint

* Based on the analysis set out in the annual report from our Investigating Committee. The Investigating Committee has a statutory duty to consider all complaints made against dispensers and their employers, to decide whether any of our regulations may have been breached and whether disciplinary action should be taken. Our regulations are set out in three parts: a Standards of Competence, which sets out the minimum education and training needed by someone that wants to register as a dispenser of hearing aids, a Code of Practice, which sets out the minimum standards of clinical and commercial practices required of dispensers and their employers and Registration Rules, which set out how our registers are maintained. In this section, clause refers to a specific regulation set out in our Code of Practice and Rule refers to a specific regulation set out in our Registration Rules.