

APPENDIX 3

*A Summary of the Factual Basis of the
Charges Brought Against Individual
Dispensers
from 1 April 2007 to 31 March 2008*

Hearing Health – 20 April 2007

Clause 21

Failure to comply with the terms of Clause 21 of the Code by failing to respond to requests for information made on behalf of the Registrar.

Outcome:

Sanction: £4,000

Mr P Shaw – 16 May 2007

Clause 3

The dispenser failed to comply with terms of Clause 3 of the Code in that he failed to provide the best possible advice to the consumer because:

- i. The aid dispensed provided very limited benefit due to its technical specification and the consumer's individual hearing loss.
- ii. The dispenser failed to make an entry in the client's records as to the limited benefit which the consumer could expect to receive from the aid dispensed.

Outcome:

Sanction: £400

Costs: £600

Qualifying promise given

Mr M Colclough – 17 December 2007

Clause 3

The dispenser failed to comply with the duty to provide the best possible advice in accordance with Clause 3 of the Code of Practice in this case. He dispensed a bone conduction hearing aid which was not appropriate for the consumer's individual hearing loss.

Outcome:

Sanction: £1,000

Costs: £2,000

Mr P Clarke – 11 October 2007

Clause 3

The dispenser failed to comply with the terms of Clause 3 of the Code in that he failed to provide the best possible advice to the consumer because:

- i. In light of the consumer's hearing being within normal limits between the frequencies of 250Hz and 2000Hz, there was a potential that the aid which the dispenser dispensed would give the consumer limited benefit.
- ii. The dispenser failed to make an entry in the consumer's records as to the risk of limited benefit which the consumer might receive from the hearing aid dispensed.

Outcome:

Sanction: £500

Costs: £2,000

Qualifying promise given

Mr G Oxley – 17 August 2007

Clause 3

- i. The advice which the dispenser gave did not provide the consumer with clear advice at the time of the purchase of her hearing aid, that the aid which the consumer was purchasing was in fact a newer version of her existing hearing aid which would provide her with no discernable difference in the quality of her hearing.

Clause 9

- ii. The dispenser failed to comply with BSA Standards in relation to the requirement to perform unmasked bone conduction.

Outcome:

Sanction: £3,000

Costs: £2,000

Mr P Hamill – 17 August 2007

Clause 3

The dispenser failed to comply with the requirements of Clause 3 of the Code of Practice in relation to the duty to give best possible advice in that in that the hearing loss exhibited by the consumer's audiogram did not fit the manufacturers recommended hearing range for the device which the dispenser eventually supplied. In addition, the dispenser failed to take notice of the manufacturer's warnings regarding residual hearing.

Outcome:

Sanction: £1,000

Costs: £1,000

Mr S Pierce – 20 April 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9 (a) (i) (iii) of the Code of Practice in relation to audiometry which was conducted, in that British Society of Audiology Recommended Procedure for Pure Tone Air and Bone Conduction Threshold Audiometry With and Without Masking and Determination of Uncomfortable Loudness Levels (March 2004 Edition) (BSA Standards) was not adhered to as Sections 7 and 8 were not applied.

Outcome:

Sanction: Admonished

Costs: £500

Mr J O'Neill – 20 April 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9(a) in relation to audiometry which was conducted in that Sections 7 and 8 of the BSA Standards were not applied and masked bone conduction was not undertaken.

Outcome:

Sanction: £500

Costs: £1,000

Ms S Brain – 11 October 2007

Clause 9

The dispenser failed to comply with Clause 9(a) of the Code of Practice in that audiometry conducted failed to comply with BSA Standards as the extent of any bone conduction response from the consumer's left ear was not determined.

Outcome:

Sanction: £500

Mr G Connor – 9 November 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9(c)(i) in relation to the audiometry which was performed in that audiometry was not recorded in accordance with the procedures recommended by the British Society of Audiology.

Outcome:

Sanction: £350

Costs: £1,000

Mr P Ellams – 9 November 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9(c)(i) of the Code in that he failed to make and retain entries in the consumer's records of the programme settings which were used to programme the consumer's aids.

Outcome:

Sanction: £350

Qualifying promise given

Mr S Roll – 9 November 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9(c)(i) of the Code in that he failed to make and retain entries in the consumer's records of the programme settings which were used to programme the consumer's aids.

Outcome:

Sanction: £500

Qualifying promise given

Mr C Elcocks – 11 October 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9(a) in relation to audiometry conducted in that:

- i. The dispenser did not conduct bone conduction audiometry at 4000hz as required by the BSA Standards and the HAC Code of Practice. Further the dispenser failed to undertake masking despite identifying a 15 dB air bone gap at 500 Hz and 1kHz. As a result, he was unable to establish the extent to which the consumer's hearing loss was conductive or sensorineural.
- ii. The dispenser failed to record the reason in the consumer's notes as to why masked bone conduction testing was considered unnecessary on this occasion.

Outcome:

Sanction: £500

Costs: £1,000

Qualifying promise given

Mr S Heylings – 11 October 2007

Clause 9

The dispenser failed to comply with the terms of Clause 9(a) in relation to the audiometry which was conducted in that the dispenser did not apply Section 7 of the BSA Standards to the hearing test which was conducted. The dispenser failed to test or record bone conduction.

Outcome:

Sanction: £500

Costs: £1,000

Qualifying promise given

Mrs H Tenwolde – 11 October 2007

Clause 9

The dispenser failed to comply with Clause 9(a) of the Code in relation to audiometry conducted in that Rules 1 and 3 of the BSA Standards were not applied and therefore bone conduction masking was not conducted. As a result the extent of any air conduction response from the client's left ear was not recorded as having been determined with the use of masking.

Outcome:

Sanction: £500

Costs: £1,000

Qualifying promise given

Mr R Borland – 17 August 2007

Clause 9 (a)

The dispenser failed to comply with the terms of Clause 9(a) in relation to the audiometry which was conducted in that Section 7 of the BSA Standards were not applied and as a result the extent of any bone conduction response from the consumer's left ear was not determined.

Clause 9 (c)

The dispenser failed to comply with the terms of Clause 9(c) in relation to the audiometry which was conducted in that he failed to maintain case history records which included programme settings for the consumer either at the time of fitting or the subsequent occasions upon which the aids were adjusted.

Clause 21

The dispenser failed to comply with the terms of Clause 21 of the Code in that he failed to respond with reasonable expedition to requests for information made on behalf of the Registrar.

Outcome:

Sanction: £3,000

Costs: £3,000

Mr L Ross – 22 June 2007

Clause 9

The dispenser failed to comply with Clause 9(a)(iii) of the Code in that he failed to carry out audiometry in accordance with BSA Standards.

Clause 3

The dispenser failed to comply with Clause 3 of the Code of Practice in that he did not give the best possible advice to a consumer as he recommended a specific hearing aid without first having established the consumer's hearing loss by audiometry.

The dispenser did not give the best possible advice to the consumer regarding the hearing aids dispensed in that the consumer's hearing loss in both ears did not fit the

specification of the aids and that therefore there was a likelihood that the aid would have been underpowered as a result.

Clause 1

The dispenser failed to maintain a high standard of ethical behaviour towards the consumer in that he provided the consumer a written undertaking that the consumer would be given a full refund of the cost of the aids purchased if a four week trial period was unsuccessful.

Outcome:

Sanction: £3,000

Costs: £9,000

Qualifying promise given

Mr L Ross – 17 December 2007

The dispenser faced a total of 6 charges of breaches of the Code of Practice:-

Clause 1b

The dispenser failed to comply with the terms of a qualifying promise given to the Disciplinary Committee at a previous hearing.

Clause 1a

The dispenser failed to comply with the terms of a promise to the Disciplinary Committee to provide a refund to a consumer.

Clause 21

Four charges related to a breach of Clause 21 in that information which was requested on behalf of the Registrar was not provided. The information requested included:-

- I. information regarding arrangements for the continuing care of consumers following the liquidation of a dispensing company of which the dispenser was a director.

- II. Information regarding complaints made by 13 individual consumers.

Outcome:

Sanction: Erasure

Costs: £27,000

Mr R McLean – 20 April 2007 - Clause 5

The dispenser failed to comply with Clause 5(d) of the Code of Practice in relation to an examination of a consumer. Despite noting the presence of a substance other than wax in the consumer's ear, he did not advise the client to seek medical advice.

Outcome:

Sanction: Admonished

Costs: £1,000

Mr C Jones – 17 August 2007 - Clause 5

The dispenser failed to comply with Clause 5(f) of the Code of Practice in relation to an examination of a client in that he failed to advise the client to seek medical advice after he had identified an asymmetric hearing loss at two frequencies, namely 500Hz and 1 kHz. He also failed to make any record of advice given to the client regarding their asymmetric hearing loss in the client's notes.

Outcome:

Sanction: £500

Costs: £1,000

Qualifying promise given