

Judicial review finds in favour of Hearing Aid Council

HAC guidance upheld following judicial review by registered employer 29.1.09 12.05pm

The High Court has dismissed an application by Hidden Hearing Ltd to require the Hearing Aid Council to withdraw guidance issued in February 2008. The guidance sought to explain recent changes to the regulations governing the dispensing of hearing aids in the UK. Hidden Hearing objected to a list of activities that the Council suggested may fall within the statutory definition of dispensing and would, if they did fall in to that statutory definition, need to be undertaken only by registered hearing aid dispensers.

In the lead up to the court case, the Hearing Aid Council took all appropriate steps to resolve the issue outside the courts. This included offering pre-mediation and mediation talks. Ultimately, these attempts failed. The Hearing Aid Council resisted the challenge by Hidden Hearing in the belief that allowing unregistered and unqualified people to fit hearing aids would put consumers at risk. The Council has a public duty to protect the public. It does this by publishing standards of education and training which individuals must meet to register as dispensers and regulations governing the dispensing of hearing aids. For some time, its regulations have stated that dispensing includes fitting hearing aids.

Defending Hidden Hearing's case has cost the Hearing Aid Council almost £115,000 in costs. To protect its registrants, the Hearing Aid Council asked the High Court to make an award of costs against Hidden Hearing. The High Court has ordered Hidden Hearing to pay the Hearing Aid Council's costs on the standard basis, which does not include submission or management costs.

Chris Hughes, HAC Chairman, welcomed today's verdict:

"This judgment wholly vindicates the Hearing Aid Council but more importantly safeguards all we have done to protect people buying hearing aids. I am delighted by the outcome of this case. At every stage in the litigation we have acted carefully and prudently and sought to resolve this case without a hearing. However we have a fundamental duty to ensure that consumers are protected and that the system of regulation ensures that standards of education, training and conduct for those who dispense hearing aids continues to do this.

"Had Hidden Hearing been successful in challenging this guidance, it would have diminished the high standard of public protection the Council has built up over many years by working with dispensers and consumers. It is high standards of education, training and conduct that give people the confidence to invest significant sums in better hearing."

- ENDS -

Notes for editors:

1. The Hearing Aid Council is the UK statutory registration and regulation body for hearing aid dispensers and their employers. The Council was founded following the Hearing Aid Council Act 1968 (as amended). It is illegal for someone to act as a dispenser of hearing aids in the UK unless that person is registered with the Council or in training to become registered.

2. The Hearing Aid Council has a statutory duty to publish standards of education and training for individuals wishing to be registered. It also has a duty to set standards of professional conduct and to consider complaints made against dispensers and their employers. The Council also has powers to inspect training facilities and take disciplinary action against dispensers and employers of dispensers found to have breached its regulations.

3. In 2008, the Health and Social Care Act included provision for the dissolution of the Hearing Aid Council and the transfer of its regulatory function to the Health Professions Council. The Health Professions Council is the UK statutory registration and regulation body that regulates thirteen healthcare professions, including speech and language therapists, physiotherapists and radiographers. The transfer is due to be completed by 31st March 2010.

4. The Council has around 1500 registered dispensers and 300 registered employers. It typically receives around 75 complaints a year about those registrants of which around 10 per cent tend to be upheld by the Council's Disciplinary Committee.

5. A copy of the judgment can be downloaded from the Hearing Aid Council's website, www.thehearingaidcouncil.org.uk

6. For more information please contact Chris O'Leary, HAC Registrar:

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