Summary: Intervention & OptionsA		
Department /Agency: Department of Health	**Title: Impact Assessment of the abolition of the Hearing Aid Council and the transfer of responsibilities to the Health Professions Council**	
Stage: Final	**Version: one Annex C**	**Date: 17/08/2009**
Related Publications: Health and Social Care Act 2008 http://www.opsi.gov.uk/acts/acts2008/pdf/ukpga_20080014_en.pdf		

Available to view or download at: Hampton review http://www.hm-treasury.gov.uk/budget/budget_05/other_documents/bud_bud05_hampton.cfm

Contact for enquiries: Keith Baggs **Telephone:** 0113 254 5791

What is the problem under consideration? Why is government intervention necessary?

The Hampton Report on Regulatory Inspections and Enforcement recommended in 2005 that the overall number of regulating authorities be rationalised. As part of its recommendations, it called for the merger of the Hearing Aid Council (HAC) with a new body, the Consumer and Trading Standards Agency (CTSA), by April 2009. The plan to set up the CTSA was later amended in order to create the Local Better Regulation Office and further consideration was given at that time to what should happen.

What are the policy objectives and the intended effects?

There are a number of positive benefits from the regulation of private hearing aid dispensers by the Health Professions Council. This change will:

- reduce the cost of regulation and reduce the number of regulatory authorities;
- modernise and improve the regulation of private sector dispensers;
- pave the way for regulation of public and private dispensers;
- improve the protection of consumers as the Health Professions Council have wider powers;
- improve the transparency of regulation for consumers.

What policy options have been considered? Please justify any preferred option.

Option A. is do nothing effectively meaning no change. This has already been ruled out by the Government and is therefore closed.

Option B. Given that the Westminster Government accepted in full the Hampton recommendations (Budget Report 2005), and the UK Parliament has passed primary legislation allowing for the abolition of the Hearing Aid Council on the presumption that the register would be transferred to the Health Professions Council, this is the option that the Government has accepted and are implementing in these draft regulations.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The Health Professions Council will monitor the regulation of private hearing aid dispensers and will report on the transfer through its own accounting and reporting procedures. The Hearing Aid Council will publish final accounts detailing the costs of the transfer and close down.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date: 12-10-09

Summary: Analysis & Evidence

Policy Option:	Description: abolition of the Hearing Aid Council and the transfer of its responsibilities to the Health Professions Council

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ £241K	
Average Annual Cost	
£	

Description and scale of **key monetised costs** by 'main affected groups'

The main group affected is the HAC which is funding transfer as a one off transitional cost through the retention fee levied against its registrants.

Total Cost (PV)	£ 241K

Other **key non-monetised costs** by 'main affected groups'

The main group with non-monetised costs is the HAC registrant body. Registrants may incur transition costs from adjusting to the regulatory change. There will be an additional average annual cost for companies to comply with HPC fitness to practise requirements.

BENEFITS

ANNUAL BENEFITS		
One-off	**Yrs**	
£ 0		
Average Annual Benefit (excluding one-off)		
£ 1,100K	1	

Description and scale of **key monetised benefits** by 'main affected groups'

Lower retention fee for dispensers and no retention fee for employers.

Total Benefit (PV)	£8,370K

Other **key non-monetised benefits** by 'main affected groups'

Improved regulatory environment for dispensers. Lower compliance costs for dispensers and employers. Improved consumer protection and clarity through improvements to the regulatory environment. Will pave the way for regulation of public and private dispensers under a single regulator with a single set of standards. Lower costs to industry should lower consumer prices and improve access to services. The average annual benefit is compared to status quo though limited to five years.

Key Assumptions/Sensitivities/Risk

It is conservatively assumed that the number of registrants will remain constant at January 2009 levels. If the number of dispensers continues to rise then the benefit of transfer will be greater. It is assumed that were it not abolished the HAC registration fee would remain at its current level minus the portion of the fee funding transfer costs. The HPC fee is assumed to remain at its current level.

Price Base Year	Time Period Years 1	**Net Benefit Range** (NPV) £ **N/A**	**NET BENEFIT** (NPV Best estimate) £ 8,130K

What is the geographic coverage of the policy/option?			UK	
On what date will the policy be implemented?			April 2010	
Which organisation(s) will enforce the policy?			HPC	
What is the total annual cost of enforcement for these organisations?			£111,744	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			N/A	
What is the value of the proposed offsetting measure per year?			£ N/A	
What is the value of changes in greenhouse gas emissions?			£ N/A	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro **N/A**	Small **N/A**	Medium N/A	Large N/A
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ N/A Decrease of £ N/A **Net Impact** £ N/A

Key: **Annual costs and benefits:** **(Net) Present**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Background

The Hearing Aid Council (HAC) was set up by the Hearing Aid Council Act 1968. The Act was extended to Northern Ireland by the Hearing Aid Council (Extension) Act 1975 and amended by the Hearing Aid Council (Amendment) Act 1989. In order both to abolish the Hearing Aid Council and enable the Health Professions Council to take over the regulation of private hearing aid dispensers, primary legislation was needed to allow for this abolition and transfer.

The Hearing Aid Council is a high overhead body that results in significant annual fees of more than £600 for its registrants. Over time, the HAC's powers have become insufficiently flexible to allow for the most effective enforcement; for example the HAC has no powers to remove registrants from the register on fitness to practise grounds and its registrants are not classed as a notifiable profession with the police.

The Health Professions Council was set up by the Health Professions Order 2001 which was made under powers in the Health Act 1999. Adding new professions to be regulated by the Health Professions Council is usually achieved through amending the Health Professions Order. In the case of the Hearing Aid Council, however, this was not possible unless an amendment was first made to the 1999 Act removing certain restrictions which would prevent the Health Professions Council taking over this new regulatory role. These amendments were passed in the Heath and Social Care Act 2008 with full support from Parliament.

The Hampton Report on Regulatory Inspections and Enforcement recommended in 2005 that the overall number of regulating authorities be rationalised. As part of its recommendations, it called for the merger of the Hearing Aid Council into a new body, the Consumer and Trading Standards Agency (CTSA), by April 2009. The plan to set up the CTSA was later amended in order to create the Local Better Regulation Office and further consideration was given to what should happen to the Hearing Aid Council.

After discussions between the Cabinet Office and the Treasury, it was agreed that the Health Professions Council was the most appropriate body to take over regulation of private hearing aid dispensers. The Westminster Government then explored how best to achieve the transition given that primary legislation was required to repeal the Hearing Aid Council Acts.

After further deliberations, the Westminster Government (Cabinet Office, Treasury and BERR) decided that the register of private hearing aid dispensers should be transferred to the Health Professions Council while the registration requirement for employers should cease. At the point of transfer, employers of dispensers will be regulated in the same way as any other business. The regulations governing businesses: health and safety, employment, commercial practices etc – are well established with appropriate responsible statutory bodies.

Officials in the Cabinet Office contacted and had a meeting with DH officials in April 2006 and informed DH that they intended to use the Legislation and Regulatory Reform Bill which would allow a Regulatory Reform Order to be made re-writing other Acts of the UK Parliament. This would provide the basis of the primary legislation. However, legal advice received suggested that the legislation proposed could not be used and therefore it was not until February 2008 that BERR formally made a request to DH to use the Health and Social Care Bill to make the primary legislation amendments needed.

The Health Professions Council; currently regulates 13 different health professions and it has developed systems and processes to handle the complexities that this brings to statutory regulation. Like the Hearing Aid Council, the Health Professions Council sets standards of education, training, performance and conduct for its registrants. However, it has more complete public protection powers than the Hearing Aid Council and is able to able to charge significantly lower fees. The transfer of the Hearing Aid Council's register to the Health Professions Council will serve to simplify regulation of that sector.

Following agreement by Health Ministers, an amendment to the Health and Social Care Bill was moved in the House of Lords which would have effect of dissolving the Hearing Aid Council and amending Section 60 of the Health Act 1999 to allow for the transfer of the register of hearing aid dispensers to a health regulatory body. The amendment had wide support and was accepted and became part of the Act when it received Royal Assent..

The provisions which abolish the Hearing Aid Council and the repeal of the Hearing Aid Council Act 1968, and the Hearing Aid Council (Extension) Act 1975 are contained in sections 123(1) and (2) of the

Health and Social Care Act 2008. The Hearing Aid Council (Amendment) Act 1989 is also repealed by the Health and Social Care Act 2008.

Options

Given that the Westminster Government accepted in full the Hampton recommendations (Budget Report 2005), and the UK Parliament has passed legislation allowing for the abolition of the Hearing Aid Council on the presumption that the register would be transferred to the Health Professions Council, there are limited policy options at this stage. We are basing this Impact Assessment therefore on two options; the status quo where the Hearing Aid Council continues to operate as it does now. (Option A) and the transfer of the register to the Health Professions Council (Option B).

Option B is the preferred option in order to ensure that there is a modern regulatory regime for private hearing aid dispensers. The Health Professions Council has more complete public protection powers than the Hearing Aid Council and is able to able to charge significantly lower fees. The transfer of the Hearing Aid Council's register to the Health Professions Council will also simplify regulation and remove barriers between the public and private sectors.

Option A: Status quo – the HAC continues to exist and carry out its functions

The HAC is entirely funded by its registrants. Each registered dispenser and registered employer must pay an annual retention fee. For the year 2009-10, the fee levied was £695, of which £635 was to cover the HAC's running costs for 12 months and £60 was to cover the cost of a one-off post-transfer closedown period of 4 months. As of January 2009, there are 1552 dispensers registered and 321 employers.

Conservatively assuming that the fee did not increase in 2010-11 and that there was no growth in the number of dispensers or employers registered, then the cost of option A in 2010-11 would be equal to the number of registrants multiplied by the fee levied to cover 12 months of operating costs (£635). This is equal to £1,185,355. Were the fee or number of registrants to increase then the costs would also rise.

There may be further non-monetised costs, particularly adjustment costs for employers and other stakeholder bodies whose business plans anticipate an imminent change in the regulatory environment.

In February 2008, the BERR Minister Gareth Thomas wrote to the DH Minister Ben Bradshaw to request that DH use the Health and Social Care Bill which was progressing through the UK Parliament to abolish the Hearing Aid Council and transfer the register of dispensers to the HPC. The Minister of State for Health Services accepted the proposal and arranged for the appropriate amendment to the Bill. The amendments are now contained within the Health and Social Care 2008 which support option B and therefore effectively ending option A.

Option B: The transfer of the HAC's register to the Health Professions Council

The Health Professions Council is funded by its registrants. It currently charges an annual retention fee of £72. Were the transfer to proceed, the Health Professions Council would only register individual dispensers. Employers would not be registered and would not pay a retention fee. Assuming no growth in the number of dispensers registered or the fee charged by Health Professions Council then the cost of registering 1552 dispensers at £76 each would equal £117,952.

Assuming conservatively that the fees levied by the HAC and Health Professions Council did not increase in 2010-11 and that there was no growth in the number of dispensers or employers registered, then the annual saving from reduced retention fees would be equal to £1,077,611. Were the fees of both organisations to increase at the rate of inflation or the number of registrants to rise then the saving would be greater.

The benefits of option B are:-

- Improved regulatory environment for dispensers;
- Lower compliance costs for dispensers and employers;

- Improved consumer protection and clarity through improvements to the regulatory environment;
- Will pave the way for regulation of public and private dispensers under a single regulator with a single set of standards;.
- Lower costs to industry should lower consumer prices and improve access to services;
- The average annual benefit is compared to status quo though limited to five years.

Risks identified with option B are:-

- That agreement cannot be reached with the Devolved Administrations and this is being managed by close liaison;
- good working relationship was needed and maintained between the HAC and the Health Professions Council;
- Support for the transfer required from key stakeholders.

Competition assessment

There are no competition specific issues involved in any of these proposals but it is possible, given the higher fees and compliance costs of continuing with the HAC that the lower cost of registration will reduce barriers to entry for practitioners.

Small firms test

'Think small first' principles have been applied to this impact assessment. In terms of practitioners, most will be self employed or in small practices and most companies trading in the area could be described as small-medium size enterprises. All practitioner industry bodies are supportive of the transfer taking place as soon as practicable and state serious concerns that there would be any kind of delay. These concerns are based around the cost of registration with the HAC and the lower compliance costs of the HPC. A further benefit of the transfer of particular relevance to small firms is that the relatively large HAC fee must be paid in a single amount whereas the Health Professions Council's fee can be paid by instalments.

Equality impact assessment

In line with better regulation best practice and the Equalities Duties we have considered the impact of the three options on minority groups. There are no obvious differential impacts in terms of race or gender to consider. Given the area in question there is potentially an impact on disabled users, as explored below.

Disability Impact Assessment

It is important to differentiate between the 'culturally deaf' and people who are hard of hearing. The culturally deaf are those who are pre-lingually deaf (deaf from early childhood) and use British Sign Language as their first language. 'Culturally deaf' people will have typically accessed audiology services through the NHS from an early age and are much less likely to engage with private hearing aid dispensers, and consequently, the HAC. Hard of hearing people typically have a deteriorating or acquired hearing loss that worsens with age. Hard of hearing people are far more likely to engage with private hearing aid dispensers, the sector which the HAC currently regulates.

The abolition of the HAC is viewed as minor both in terms of scale and significance. While the impact is clearly on a minority group, the numbers of people affected are very small and stakeholder groups agree that any impact would be positive.

The HAC deals with a range of consumers and their families; only the most vulnerable are those who will be most affected by a transfer to the HPC. This will typically be a female, living alone without dependents, in her early eighties. Her principle disability would not be related to hearing. For example, it is presumed the complainant would be suffering from the physical and mental difficulties often associated with people of that age. This could include dementia, chronic conditions, confusion, memory loss and frailty.

Currently complaints to the HAC are split into two distinct areas: consumer protection (overcharging, refunds, contracts of sale etc.) and fitness to practise (complaints regarding the competence of the

audiologist). Following the transfer, complaints strictly in the consumer protection area will be dealt with by other competent bodies (e.g. the Office of Fair Trading and Trading Standards) under the general consumer protection legislation. The Health Professions Council will deal with complaints in respect of fitness to practice, standards etc. However, the Health Professions Council will take an interest in consumer protection complaints where they suggest a breach of the Health Professions Council's Standards of Conduct, Performance and Ethics.

Given that the Health Professions Council already deal with vulnerable consumers in respect of their other areas of regulation, they have experience, procedures and technical equipment that a consumer from the HAC may require. Both organisations provide support at hearings which can include British Sign Language translators, lip readers, palantypists and visual support, use of premises with specialised disabled access and hearings can be moved closer to vulnerable people. The Health Professions Council also offer their publications in alternative formats including larger text and Braille.

As part of an orderly transition, the Health Professions Council are working closely with the HAC to benefit from their experience is dealing with their particular consumers and registrants. To ensure they continue to meet people's needs the Health Professions Council review their policies annually and will seek guidance from consumers groups where appropriate.

Likely number of people affected

According to the Office for National Statistics figures show that as at March 2007, 54,500 people were recorded on the register of the deaf and 164,600 people were registered as hard of hearing. These will be divided between the public (NHS) and the private sector. The Hearing Aid Council regulates only the private hearing aid industry.

Information and reconsideration following the results of the public consultation exercise

The public consultation exercise which covered the Government's proposals (see separate document on the Government's response to the consultation: The Health Professions (Hearing Aid Dispensers) Order 2009) to transfer the private hearing aid dispensers to the Health Profession Councils took place between 7th April and 7th July 2009. There were thirty-two responses to the consultation from a wide range of bodies/organisations and healthcare professionals in the field of audiology practice.

Support for the Government's proposals was overwhelming. Of the seven specific questions 97% of respondents supported the Government's proposals in four of them. The other three questions received support of 82%, 78% and 72%.

All thirty-two questions were analysed. Their was four issues that arose, the possibility of employing hearing aid assistants in the future, the definition of "hearing aid", exemption for students on non-approved courses, and whether the Government's proposal to exempt some medical staff from the requirement to register with the HPC was correct.

The possibility of employing assistants in the future: The Department is aware that the profession has begun to debate the possible use of dispensing assistants to help dispense hearing aids. The Order as drafted does not allow unregistered assistants to deliver such services and only those practitioners who are qualified and registered with the HPC will be able to assess, test and dispense a hearing aid to a private patient. This reflects the current position under the HAC. The issue of using assistants is currently under consideration. In its recent report the Extending Professional Regulation Working Group highlighted the potential benefits of licensing/licensure regimes which may be applicable to health roles. In their response to the Report the four Health Administrations of England, Northern Ireland, Scotland and Wales noted that they would review, in particular, the recent Scottish Health Care Support Workers Pilot and the licensing proposals made by the HPC concerning assistants within the Report, to assess their applicability within their jurisdictions.

The definition of a hearing aid: The Department has also re-considered the definition of "hearing aid" following comments received from 2 respondents. The respondents' proposal was that the definition should be the definition drafted by the European Committee for Standardisation Technical Committee on Hearing Aid Specialists Services because it reflected the latest technology. The Department has accepted this proposal and has amended the draft Order accordingly. The revised definition applies to both analogue and digital devices. The change in the definition does not change the position of any individual practitioner currently registered with the HAC or any student undergoing training to become a dispenser.

Exemption of students on approved courses: The issues of exemption for students on non-approved courses was raised in the consultation. The Department has considered the issue of students . The Order allows exemption for students on courses approved by the HPC. Also exempt are students on non-approved courses where the clinical placement is undertaken in the NHS. Therefore no exemption is needed for these students. The HPC is currently in discussion with the Higher Education Institutes to ensure approval which will avoid disruption to students and their education prior to the transfer.

Exemption of some medical staff:- The exemption applies to a very small number of medical staff and is necessary to allow them to carry out their current duties which can include private work, particularly for overseas patients. Any work for the NHS falls outside the Government's proposals and therefore it is only private work that needs either registration with the Health Professions Council or exemption from the need to do so. The Government has considered the consultation responses and has concluded that its proposed exemption should be retained. However, it does not mean that these medical staff are unregulated. They are regulated by the General Medical Council and as such are required to work to the standards set by that body. The Government does not think it could be justified to require these group of people to register with the Health Professions Council as well as maintaining registration with the General Medical Council.

Conclusion from the consultation

The consultation exercise raised no issues of equality or regulatory burden on the practitioners, business or for patients and the public. The HPC will take over as regulator from the HAC have an equality and diversity policy which is published in full on their website. The HPC policy covers:-

- setting standards;
- approving programmes of education and training;
- registering health professionals; and investigating and adjudicating allegations about their fitness to practise.

In so the HPC interact's with a diverse range of people, including:-

- the public, especially complainants or witnesses in fitness to practise proceedings;
- registrants and potential registrants;
- education and training providers;
- health care providers, professional bodies, consumer groups and other partner organisations; d
- their employees and the "partners" who carry out tasks on their behalf.

The HPC is required to meet the general duties under relevant equality legislation, including: the Race Relations Act 1976 and the Disability Discrimination Act 1995.

No issues were identified that would lead to changing the benefits or costs analysis. The draft Order has been amended to include a new, more modern definition of a hearing aid and by other minor drafting issues.

Following the overwhelming support for the Government's proposals, Ministers have agreed that the Order should be laid taking account of the amendment concerning the definition of an hearing aid.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	N/A	No
Small Firms Impact Test	Yes	No
Legal Aid	N/A	No
Sustainable Development	N/A	No
Carbon Assessment	N/A	No
Other Environment	N/A	No
Health Impact Assessment	N/A	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	N/A	No
Rural Proofing	N/A	No