

British Healthcare Trades Association

Consumer Code of Practice Audit

March 2014

Background information

The British Healthcare Trades Association (BHTA) can trace its history to 1917 when it was established to support mobility aids for the war-wounded. It comprises several product service sections, which operate under a joint Association. All members are required to comply with the BHTA code for their consumer transactions, but many members also have direct contracts with local authorities and the National Health Service. As the Government roll out direct payments and independent living, BHTA anticipates that its members will deal increasingly directly with individual consumers.

There are currently around 480 members across all of the sections ranging from small independent operators to large national companies. BHTA market penetration varies depending upon the sector. BHTA members dealing in prosthetics, for instance, account for nearly all of the market, whereas those dealing with stair lifts probably for over half of the market.

Audit Process

Two qualified trading standards professionals from the Trading Standards Institute (TSI) completed an onsite audit split over a full day. The audit focused on the following areas:

1. Member application process including checks carried out on prospective businesses
2. Member auditing – content and process (including general compliance with the code, staff training and dealing with consumer complaints)
3. Sanctions for non complaint member businesses
4. Marketing and advertising by member businesses – Terms and conditions and pre contractual information (including cancellation rights, deposits, delivery times and guarantees and warranties)
5. Customer service provisions (including support for vulnerable consumers)
6. Consumer complaints process (including ADR)
7. Customer satisfaction, information/complaints from enforcement agencies and how this information is used to develop and improve the code.

Audit Summary

It was clear to the audit team that the BHTA Consumer Code of Practice is a central feature of what they do. It permeates through all of their systems and procedures and it is one of the key attractions for current and prospective members of BHTA.

There were no significant areas of concern noted, but the audit found some areas that needed to be addressed. Overall, the audit team felt that BHTA are discharging their responsibilities as a code sponsor.

The areas that needed to be addressed included:

1. A suggestion in some documentation that members with an in-house quality management system were exempt from audit. BHTA were reminded that, whilst a QMS might be an indicator of reduced risk of non-compliance by a member, it could not give an absolute exemption from audit and monitoring.
2. The escalation process for getting ex-members to remove reference to BHTA membership and TSI Approved Code status needs to be properly documented.
3. The existence of a "Do Not Admit" list needs to be reviewed, monitored and managed in accordance with guidance issued by the Information Commissioner's Office on such lists. In addition, BHTA needed to take care with how the list was referred to internally, ensure that it was kept up to date, and those listed on it were there for objective and justified grounds.
4. The current approach to alternative dispute resolution is to utilise a legally qualified independent person, but BHTA will need to review this to ensure that it will comply with the requirements of the ADR Directive.

The Audit made particular note that the Care & Support Bill currently progressing through Parliament included a clause that created a duty for local authorities to signpost consumers to appropriate suppliers of equipment following an assessment. The audit team agreed that membership of BHTA would be a good indicator and would help local authorities to discharge this duty in the future.

Member Application Process

BHTA has a comprehensive member database, with most records kept electronically. The audit noted the membership enquiry form and the application process, which included for effective checks on the providence of the applicant. The application process also specifically highlighted the deposit protection approach being adopted by the applicant (which varied depending upon the type of business and their operating method).

The audit examined:

- The procedure for appointing new members
- The records of audit of existing members
- The process for completing inspections of members
- The process of membership withdrawal

Summary

The member database is comprehensive, data was easily retrievable and no issues were found with missing records. The membership application process was comprehensive and well structured. The auditing and monitoring of members was appropriate and the process for withdrawal of membership was effective (although in need of properly documenting as a process).

New Members

The member application process was examined. All applications are thoroughly considered, with an initial screening check and a more thorough check for those applicants that progress to formally submit their application. The applicant is required to complete a detailed assessment and audit.

The application process includes a check against a list described as a "Do Not Admit" list and also variously described by staff and in documents. This list was examined and found to contain a list of organisations on a spreadsheet against a reason why they had been entered on the list. The spreadsheet did not indicate the date the entry had been made nor whether it had been reviewed, but we were advised that this information was available and that they were subject to review.

The audit team felt that this "Do Not Admit" list, whilst an acceptable practice, carried a series of risks and they recommended that BHTA should review it in accordance with guidance issued by the Information Commissioner's Office on the use of such lists. In particular, the audit team felt that BHTA should:

- Take care with how the list was described internally
- Ensure that the reasons for inclusion on the list are objective and justifiable
- That the date of entry on the list is recorded
- That the list is subject to regular review, which is also recorded
- That it is clear that entry on the list is not a conclusive factor on whether or not an applicant is accepted into membership, but an indicator to prompt further enquiry by more senior staff
- That BHTA has a recorded process for removing organisations from the list

Otherwise, the audit team felt that BHTA ought to seek and follow the advice of the Information Commissioner on the operation of the list, if such a list were to be maintained.

Action Point: The "Do Not Admit" list and policy should be reviewed.

Several new applications were checked on the member database and no issues were found. All the audit schedules, reports and results of audits were retrievable.

Existing Member Inspections/Audit

BHTA audits about 25 members per year on a random basis with additional audits for low scoring customer satisfaction or high complaint numbers. The audits are carried out independently by one of two experienced auditors. The scores and the audit reports are shared with the BHTA Directors who will follow up on any shortcomings with the members.

The audit team noted that a number of documents referred to a members' quality management system (such as ISO 9001) providing 'exemption' from auditing. Whilst a QMS can be an indicator of lower risk, it cannot provide an exemption from auditing.

Action Point:

The existence of a QMS should be used as an indicator of lower risk rather than an absolute exemption from audit.

A number of member records were examined. The audits were found to be comprehensive and well recorded. They follow a set procedure with additional comments by the auditor as appropriate. Audits are followed by a letter confirming any actions required to address any deficiencies.

Best Practice:

The audit noted that BHTA kept its membership retention under monthly review and had a clear process for the two month period prior to renewal falling due. The audit team noted that BHTA currently maintains 97% membership renewal.

Membership Withdrawal and Sanctions for Non Compliant Member Businesses

Non compliant members face a range of sanctions including suspension of membership, closer scrutiny or expulsion. The audit examined a disciplinary case involving a member that had engaged in anti-competitive practices concerning the pricing of goods on the internet. The Board noted the comprehensive approach to preparing the case, the deliberations of the Sanctions Panel and the outcome of the case.

The member database was examined and all members who had cancelled their membership had been removed from the BHTA website, and their records amended accordingly. In addition, the audit noted that action was taken to update the TSI website (via MLS). However, the audit noted that at least one former member continued to display the BHTA logo and, whilst some initial action had been taken to seek the removal of this, the process had not been escalated. The audit team reminded BHTA that an ex-member continuing to display the BHTA logo was a criminal offence and their escalation process ought to, as a final action, involve the relevant local trading standards authority to secure compliance. We noted that the escalation process was not documented in a procedure and this may help to ensure effective action was taken in each case.

Action Point:

The escalation process for securing the removal of the BHTA and TSI logos from use by ex-members should be properly documented.

Marketing and Advertising by Member Businesses

BHTA issue comprehensive branding guidelines to all their members and all new members receive a pack of marketing and branding materials when they join the code.

There were no issues of concern with marketing and advertising.

Best Practice:

It was noted that cold calling is prohibited by the BHTA Code of Practice which, given their principal market and the vulnerability of their typical consumers, was felt to be excellent.

Terms and Conditions and other Pre-Contractual Information

BHTA do not issue standard terms and conditions, however members do have to ensure their terms and conditions are clear, use plain English and comply with consumer legislation. The audit team considered the range of circumstances where non-refundable deposits might be taken and the appropriate terms and conditions. The bespoke and individually tailored nature of some products (such as prosthetics) made it appropriate that deposits were non-refundable where the product had been manufactured, but BHTA needed to ensure that such circumstances were carefully considered. In general, if a product was capable of resale, the deposit ought to be refundable, but if it was specifically tailor-made and incapable of resale, deposits provided some guarantee to the seller that they would be able to cover their costs. BHTA needed to review these policies in light of the new Consumer Rights Directive and the forthcoming Consumer Rights Bill.

Customer Service Provisions

BHTA operates a comprehensive customer service process with facilities to leave positive and negative feedback and a review loop to ensure that feedback is used to improve processes.

Best Practice:

The audit team noted the special training provided for members via their BTEC in Healthcare & Assistive Technology, including dealing with customers that may be displaying signs of dementia. This helps to reduce the risk of inappropriate behaviour by sales staff towards vulnerable consumers.

There are no premium rate contact numbers in use and the process for raising complaints is straightforward for consumers.

Consumer Complaints Process

The complaints process for BHTA was examined. The audit noted the very low level of complaints received about members. In 2013, there were just 20 complaints. At present, the low number of complaints meant that it was appropriate to keep them on a spreadsheet, but the audit team noted that BHTA intend to develop links to their member database during 2014.

A number of complaint records were examined. They were found to be comprehensive with access to all of the relevant correspondence being provided.

Although none had required reference to alternative dispute resolution, this was available through Lord Martin Thomas, QC. The audit team advised BHTA of the forthcoming ADR Directive and as a result they would need to review whether or not that approach met the requirements of the Directive.

Action Point:

Review the current approach to alternative dispute resolution in light of the ADR Directive.

The customer complaint workflow was examined and found this to be comprehensive and clear. There were sufficient resources to handle the volume of complaints received. There was no backlog and all of the complaint records reviewed were within reason, and up-to-date.

Several complaints were examined. They were properly recorded, up to date and progressed in a satisfactory manner.

There did not appear to be any undue delay in the processing of any of the complaints reviewed.

Best Practice:

There was a very low level of complaints recorded about BHTA members.

Customer Satisfaction and Feedback

BHTA use physical customer satisfaction cards in addition to a newer online feedback mechanism. The return rate for the cards was quite high with 1900 out of 4200 distributed in 2013 being returned. Overall satisfaction rates were very good.

The audit team also noted the independent mystery shopping exercises carried out for BHTA by RICA.

Conclusions

BHTA are fulfilling their obligations as a code sponsor and their member base is compliant with the CCAS core criteria and the BHTA Consumer Code of Practice.

A few observations and action points were raised, but these did not detract from a generally excellent code of practice that is well run and effectively managed.