

General Optical Council

Fitness to Practise

guidance for employers

About this booklet

This booklet is aimed at those people who employ a GOC registrant and who may have concerns about their employee in relation to fitness to practise issues.

About us

We regulate optometrists, dispensing opticians, student optometrists, student dispensing opticians and optical businesses in the UK. We refer to these groups as our registrants. There are currently around 26,000 registrants on our registers.

What do we do?

We protect the public by:

- » setting standards for optical education, training, performance and behaviour;
- » approving the qualifications that lead to registration;
- » publishing a register of opticians, students and optical businesses in the UK;
- » investigating and acting on concerns that a registrant is not fit to:
 - practise;
 - train as an optician; or
 - run a GOC-registered business.

What is fitness to practise?

If a registrant is described as 'fit to practise', it means they meet the standards of health, character, knowledge, skill and behaviour necessary for them to do their job safely and effectively.

Our standards

Potential registrants have to meet our standards of knowledge, skill and behaviour. These are set out in two documents, 'Standards in competence' (knowledge and skill) and 'Standards in conduct' (behaviour).

These documents are available on our website www.optical.org/en/standards/index.cfm

If a registrant is not fit to practise we can stop them from working in the UK, or restrict the work they are allowed to do.

Who can complain?

Anyone can complain to us if they think one of our registrants is not fit to practise.

We receive complaints from members of the public, patients, carers, employers, the police and other registrants. This booklet is aimed at employers.

What we need from you

You must act quickly to protect patients if you have important information about a registrant which may mean that they lack the skills, knowledge, character or health to practise safely and effectively, or be trusted to act legally.

We recommend that as an employer you try and address your concerns at a practice or business level first. If you have tried this approach in relation to the delivery of NHS services, and it has not been successful, you should, in the first instance, report your concern to the local primary care organisation.

However, you should inform the GOC straight away if:

- » taking action at a local level would not be practical
- » action at a local level has failed
- » the problem is so serious that the GOC clearly needs to be involved
- » you are afraid of victimisation or a cover up.

Each potential allegation is considered on a case by case basis. In some cases, telling us about a concern you have about the fitness to practise of a registrant may not automatically result in the GOC opening an investigation. We may want to receive evidence from you which supports your concern. In this case, it will be appropriate for us to wait until you have finished your procedures. We cannot progress our investigations without evidence and in most cases you will be the best person to provide us with that evidence.

There will be other cases where the allegation appears to be so serious that we will open our own investigation before you have concluded yours. Examples are allegations of serious and persistent clinical deficiencies, sexual misconduct or large scale dishonesty.

In these types of cases, we may consider there is a need for the GOC to take immediate action to protect the public before the local level investigation has concluded. Opening a GOC investigation means the registrant cannot avoid the consequences of an investigation by removing themselves from the register. It also means that we can consider whether to apply for an interim order (see page 8).

If we decide to investigate a registrant employed by you, we will contact you. If you have any concerns about this registrant and you have not previously told us about them, please let us know.

If you are not sure about how to deal with your concerns about a registrant and whether the GOC should be involved, then please call us on 020 7580 3898 (option 2) and one of our Fitness to Practise team will be happy to speak to you. Our staff will work with you to establish whether we can help and what action to take. If we are not able to help we will always tell you if there is an alternative organisation who could help you.

What types of complaints can we deal with?

The GOC can only investigate concerns about fitness to practise issues.

These could be:

- » poor professional performance, such as failing to notice signs of eye disease
- » failing to maintain appropriate records
- » physical or mental health problems affecting someone's work
- » inappropriate behaviour, such as violence or sexual assault
- » being under the influence of alcohol or drugs at work
- » fraud or dishonesty
- » a criminal conviction or caution.

We cannot:

- » arrange refunds or compensation
- » mediate between a registrant and a patient
- » give you legal advice in an employment law context or otherwise
- » consider employment issues such as personality conflicts, poor timekeeping; absence from work, or contractual disputes.

However, if you believe a personality conflict may be evidence of bullying or harassment, or the sickness or absence from work may be part of a wider dishonesty or health issue, you should contact us.

We appreciate that it can sometimes be difficult to distinguish between a disciplinary issue in an employment context and a fitness to practise investigation. In those cases you should call us and we will be able to work with you to establish whether the GOC can investigate your concern.

If you own or manage a practice which employs student optometrists or student dispensing opticians any concerns you have about their clinical performance should be raised with their college supervisor or professional body:

College of Optometrists: www.collegeoptometrists.org
Association of British Dispensing Opticians: www.abdo.org.uk

If a registrant becomes aware of any issue that may have an impact on their fitness to practise, they have a responsibility to notify the GOC immediately, for example if they:

- » have been convicted of a criminal offence/received a conditional discharge
- » have accepted a police caution
- » been disciplined by any organisation responsible for regulating or licensing a health or social care professional
- » are barred from working with children and/or vulnerable adults
- » have been suspended or placed under a practise restriction by an employer or similar organisation because of concerns about their fitness to practise
- » have a health condition which a reasonable person would think may impair their fitness to practise.

This list is not exhaustive.

If, as an employer, you become aware of any of these issues or other concerns relating to fitness to practise concerns you should let us know straight away.

What happens if a complaint is made about one of your employees?

Members of the public raise concerns about the treatment they have received directly with the GOC. When we receive a complaint from a patient who has attended your practice, we will write to you asking for information that will assist our investigation. This can include the names of all treating optometrists and/or dispensing opticians, optical records or more information about particular events.

If you are a registrant employer you must cooperate with any investigation or formal inquiry about another health professional's fitness to practise, fitness to undertake training as an optometrist or dispensing optician. This includes investigations by other organisations.

The Opticians Act provides the GOC with the **power to require** any individual (including a registrant) to supply any information or produce any document which appears to the GOC relevant to its fitness to practise function. Consequently, although we would expect your cooperation, we can also make an application to the court for an order requiring you to hand documents to us.

If you have any concerns about providing information to us you can speak to us about them. We cannot give you legal advice but we can explain why we are making the request. Alternatively you can speak to your professional body or obtain independent legal advice.

What we can tell you

Fitness to practise investigations are private and we do not publicise the fact that a registrant is under investigation. However, we are required to write to employers and notify you of the investigation. If you ask for more information about the investigation we have to decide whether it is in the public interest to provide it. You must make that request to us in writing, explaining why it is in the public interest for you to receive more information, and we will consider your request accordingly. Annex 1 is a pro forma template for making such requests.

Once the case examiners (see p 10) decide whether or not to refer the allegation against your employee to the Fitness to Practise Committee, we will write to you again with the outcome.

We also issue an alerts list every month giving details of the fitness to practise hearing outcomes and registrants who are subject to interim orders. To receive these alerts, please email us at goc@optical.org.

We also publish details of forthcoming hearings about eight weeks before the date of the hearing on our website www.optical.org/en/Hearings/index.cfm under 'Future hearings'.

Interim orders

When we receive information that suggests to us that there is a real and immediate risk to the public, the registrant themselves, or there is another reason in the public interest if a registrant continues to work without restriction, we will consider whether to apply for an interim order.

An interim order is an immediate order of suspension or conditional registration.

If the registrant is suspended they cannot work

If conditions are placed on their registration, they can work but under restriction. You may be asked to supervise the registrant in their daily practice, or act as a workplace mentor. If you are asked to do this and you have any queries, please contact us on 020 7580 3898 (option 2) and we will explain what is expected of you. We would expect you to have agreed to act as a supervisor before the conditions are placed on a registrant.

If you become aware that a registrant is working in breach of the interim order you should tell us immediately.

You can find out if your employee is subject to an interim order by searching the online register on our website www.optical.org.

For more information about the type of conditions that can be applied to a registrant's registration, please refer to the Fitness to Practise Panelists guidance document, Bank of Conditions at www.optical.org/en/Investigating_complaints/fitness-to-practise-guidance/index.cfm.

How do I complain?

If you want to complain about one of our registrants please fill in an investigation form and send it to us. You can download an investigation form from www.optical.org. To have an investigation form sent to you in the post call 020 7580 3898 (option 2).

Send your completed investigation form to:
Fitness to Practise team
General Optical Council
41 Harley Street
London W1G 8DJ

If you decide not to use the investigation form, we need the following information when you make a complaint to us:

- » the registrant's full name and GOC number
- » the address where the registrant practises
- » a detailed explanation of the events which are causing you concern
- » any documentation you have gathered to support your complaint
- » details of any action you, the PCT or another organisation has taken
- » details of any one else who can support your complaint.

If you have any concerns about patient confidentiality when you are providing information to the GOC, you may wish to take advice from your professional body or seek independent legal advice.

What happens next?

When we receive a complaint about one of our registrants we take the following steps:

1. Start dealing with the complaint

We will let you know that we have received your complaint and what action we are going to take. We will also let the registrant involved know that we are investigating a complaint about them. We will give a copy of the investigation form to the registrant.

2. Investigate the complaint

We will gather information about your complaint so we can decide what action to take. We may need to obtain copies of the patient's clinical records from you, any other relevant optometrists, dispensing opticians or hospitals. We may need further information from you, and may ask you to sign a witness statement explaining what you know about the events we are investigating.

We will send the information we have gathered to the registrant and ask them for their comments about the complaint. Any comments that the registrant makes will then be sent to you, so that you can tell us if you disagree with anything the registrant has said.

3. Refer the complaint to the case examiners

The case examiners consider cases in pairs- one registrant and one lay person. They will consider each complaint using the information we have gathered.

The case examiners will decide what action to take, and can:

- » take no further action
- » take no further action but issue the registrant with advice on his/her future conduct or practise
- » ask for further investigation to be carried out
- » refer the case to the Investigation Committee for a health or performance assessment
- » give a warning to the registrant
- » refer the complaint to the independent Fitness to Practise Committee, which will usually hold a public hearing to decide what action to take

Where the case examiners cannot agree, or where they feel that a health or performance assessment may be required, they will refer the case to the Investigation Committee. The Investigation Committee is made up of GOC registrants, a consultant ophthalmologist and lay members.

You can find out more information about the Investigation Committee in the guidance document at www.optical.org/en/Investigating_complaints/fitness-to-practise-guidance/index.cfm.

4. What action can the Fitness to Practise Committee take at a public hearing?

If the Committee decides that the registrant is not fit to practise it can do any of the following:

- » conditional registration – the registrant can stay on the register as long as they keep to certain conditions, such as doing extra training or being supervised while they work
- » suspension from the register – the registrant's name is temporarily taken off the register, and they cannot work for a fixed period of time
- » removal from the register – sometimes referred to as 'erasure' or 'striking off'. The registrant's name is taken off the register, which means that they cannot work as an optometrist or dispensing optician (or train, or run a GOC registered business) in the UK. If they want their name to be put back on the register in future there is a separate process that they have to go through, which includes considering the original reason for their removal
- » financial penalty – the registrant must pay a fine up to a maximum of £50,000.

If the Fitness to Practise Committee decides that a registrant is fit to practise, they can still warn them about their future behaviour or performance.

You can find out more information about the proceedings before the Fitness to Practise Committee in the FTP Guidance at www.optical.org/investigating_complaints/fitness-to-practise-guidance/index.cfm.

Is the Fitness to Practise Committee's decision final?

Decisions taken by the Fitness to Practise Committee are reviewed by the Professional Standards Authority ('The Authority') which oversees our work.

The Authority can ask the High Court to review a decision if they decide that it is too lenient. If the registrant thinks that the Fitness to Practise Committee's decision is unfair, they can appeal against it in the High Court.

What can I do if I am unhappy with how you handle my complaint?

If you are unhappy with how we have handled your complaint about one of our registrants please write to:

Registrar and Chief Executive
General Optical Council
41 Harley Street
London W1G 8DJ

Complaints about someone pretending to be an optician

We also investigate complaints that someone who is not one of our registrants is either pretending to be an optometrist or dispensing optician or is carrying out healthcare activities that only our registrants are allowed to do (such as sight tests, fitting contact lenses or dispensing spectacles to those under 16 or registered blind/partially sighted). Our Protocol on the Investigation and Prosecution of Criminal Offences explains how we deal with criminal investigations and prosecutions. You can access from the 'Policies, procedures and protocols' section of our website www.optical.org.

Anyone can search the GOC registers online to check that their optician is registered and that they are allowed to carry out particular activities. If you do not have access to the internet, you can phone our Registration team on 020 7580 3898 (option 1). They will be able to tell you if an optician is registered with us.

If you want to complain about someone who is not one of our registrants but who is either pretending to be, or who is carrying out activities that only our registrants are allowed to do, please contact our Fitness to Practise team by phoning 020 7580 3898 (option 2).

If we cannot help you, you may find the following of assistance. You may also find it helpful to provide this information to patients who ask you for help.

Optical Consumer Complaints Service (OCCS)	An independent body which tries to settle complaints from members of the public who are not satisfied with goods or services received from a registered optical practice. Contact the OCCS on 0844 800 5071 or at www.opticalcomplaints.co.uk
Advertising Standards Authority (ASA)	The UK's independent regulator of advertising across all media which investigates complaints about false or misleading advertising. Contact the ASA on 020 7492 2222 or at www.asa.org.uk
Citizens Advice	If you, or a patient, are not sure who to complain to, or if you need legal advice, contact Citizens Advice on 020 7833 2181 or at www.citizensadvice.org.uk
Information Commissioner's Office	The UK's independent authority to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals. Contact the Information Commissioner's Office on 08456 30 60 60 or 01625 545745, or visit www.ico.gov.uk
Patient Advice and Liaison Service (PALS)	PALS staff can give general advice on complaints procedures and may be able to help resolve less serious complaints by informal discussion and negotiation. PALS is available in all NHS trusts, and you can find your local PALS office by phoning NHS Direct on 0845 1558 121 or at www.pals.nhs.uk
Independent Complaints Advocacy Service (ICAS)	ICAS supports patients and their carers who wish to pursue a complaint about NHS treatment or care they have received. ICAS is provided by three organisations: POhWER in the West Midlands, London and the East of England www.pohwer.net SEAP in the South East and South West of England www.seap.org.uk/icas The Carers Federation in the North East, North West, East Midlands, Yorkshire and Humberside www.carersfederation.co.uk

Board of Community Health Councils in Wales	The Board of Community Health Councils in Wales Board of Community Health Councils can give free, private help if in relation to complaints about NHS services which have been received in Wales. Phone 0845 644 7814 or visit www.patienthelp.wales.nhs.uk
Scotland	Local Health Boards in Scotland can give free, private help in relation to complaints about NHS services received in Scotland. Visit www.show.scot.nhs.uk
Northern Ireland – Patient and Client Council	The Patient and Client Council can help in relation to complaints out health and social care services in Northern Ireland. Phone 0800 917 0222 or visit www.patientclientcouncil.hscni.net
Witness	Witness is a charity dedicated to helping people who have been abused by health and social care workers. Contact them on 08454 500 300 and at www.popan.org.uk
Action Against Medical Accidents (AvMA)	An independent charity which provides free specialist medico-legal advice and support covering any stage of a complaint where there are patient safety implications. They cover both NHS and private healthcare complaints procedures and can advise on referrals regulatory bodies or legal action. Contact them on 0845 123 2352 and at www.avma.org.uk
Public Concern at Work (PCaW)	An independent charity which offers free and confidential advice to people with concerns about public interest whistleblowing. Contact them on 020 7404 6609 or at www.pcaw.co.uk

Annex 1 – How to request more information from the GOC once an investigation has commenced against your employee

Section 13C(3) of the Opticians Act 1989 (as amended) provides that the GOC may disclose to any person any information relating to a registrant's fitness to practise or undertake training or carry on business when the GOC considers it to be in the public interest to disclose.

The wider public interest includes not just protecting members of the public, but maintaining public confidence in the professions, and declaring and upholding proper standards of conduct and behaviour.

To make that assessment, we will need a request from you in writing. You may wish to use the following template:

To: [Named GOC caseworker]
General Optical Council
41 Harley Street
London W1G 8DJ

[or by email provided to you on correspondence]

This is a request for further information about [Name of registrant/ GOC registration number/ Case reference number]

[Please describe your connection to the registrant you are enquiring about]

By letter dated [insert date] you notified me that the GOC is investigating the above mentioned registrant. I would like to request further information about the GOC investigation and consider it in the public interest that you disclose this information to me because

- [Please explain why it is in the public interest]

Yours sincerely

[Name]
Contact details

We will endeavour to respond to your request within five working days.

Alternative formats

You can get this booklet in Welsh by visiting www.optical.org
