

Accessibility of fitness to practise information

Consultation summary and response

October 2010

Introduction

In 2010/11, the General Optical Council (GOC) has been researching issues around the content and accessibility of the GOC registers. The objective of this work is to establish whether improvements can be made to our current policies in this area, including in relation to the accessibility of information about the fitness to practise of GOC registrants.

As part of this work this year we held a public consultation on the accessibility of information about the fitness to practise of GOC registrants on our public registers and website.

We have also been running a broader survey on the role, content and usability of our online public registers, which included a question regarding the accessibility of fitness to practise information.

This work will also respond to the recommendations of a report in February 2010 from the Council for Healthcare Regulatory Excellence (CHRE) on the regulators' registers. The CHRE report included a number of recommendations regarding the accessibility of regulators' information about the fitness to practise of their registrants.

Consultation process

The consultation period began on 6 June with the publication of the consultation document and the launch of the online survey. The consultation ran until 27 August (the broader online survey is ongoing).

Targeted emails were also sent to key representative stakeholder organisations calling attention to the consultation. The GOC met with stakeholder organisations to discuss the consultation process and issues.

Consultation summary and response

The issues discussed in the consultation document were:

1. Information relating to suspended and struck off registrants.
2. Information on expired Fitness to Practise (FTP) Committee warnings and sanctions.
3. FTP Committee decision notices and transcripts on the GOC website.

4. Other register accessibility issues.

The GOC received a total of 25 full responses to the consultation on the accessibility of fitness to practise information. Five of the responses were from representative organisations: the Association of Optometrists (AOP), the Association of British Dispensing Opticians (ABDO), the Federation of Ophthalmic and Dispensing Opticians (FODO), the College of Optometrists and the International Glaucoma Association (IGA).

We also received 39 responses to the general survey on the role and accessibility of the GOC registers. Of these, 24 were from individual patients/members of the public, 14 were from optometrists, dispensing opticians or students, and one from a representative of a health authority/PCT.

The issues set out in the consultation were considered at a public meeting of the Council on 23 September 2010. The Council's decisions were informed by the advice of the GOC's Registration Committee.

For each issue discussed in the consultation document, contextual information, an outline of the feedback received, and a summary of the GOC's response and next steps is set out below.

1. Currently suspended and struck off registrants

Context

At present, GOC registrants' records are entirely removed from the online public registers while a suspension is in force, or following an erasure. This is on the basis that the GOC's public registers have been intended to be a definitive record of all those who are qualified and fit to practise in the UK - and only those people.

The CHRE report recommended that regulators retain the records on the public registers of both suspended registrants, and those who are struck off following a decision by the Fitness to Practise Committee. This is in order to avoid any possible confusion about the status of these individuals/businesses for those searching the registers. Including the records of struck off registrants on the public registers would, however, likely require a change to the Registration Rules.

Consultation feedback

Most responses (22 of 25, including ABDO, AOP, the College, FODO and the IGA) were in favour of the records of suspended registrants appearing on the GOC's online registers. Comments on this question considered that this would help protect the public, by lessening the possibility that a suspended registrant could continue working while suspended.

The majority of responses (16 of 25, including the College, the IGA) were also in favour of struck off registrants appearing on the registers. However ABDO, AOP and FODO did not consider that there was evidence that the current arrangements are causing confusion, and considered that retaining the records of erased registrants might create confusion.

GOC comment and response

The Council agreed on 23 September that details of suspended registrants should be included in the public registers. It was considered that improving clarity in this area would be beneficial for public protection, and would be consistent with the approaches of most other UK health regulators.

Changes are to be made to the GOC's website to include suspended registrants on the online public registers, with a note against their record clearly indicating the suspended status.

Council decided against undertaking work to include information on struck off former registrants on the GOC's online public registers at this time. Text will be added to register search results for clarification.

2. Expired fitness to practise warnings and sanctions

Context

At present, records on the GOC's online public registers only provide information about FTP Committee sanctions that are currently in force – a link on the record directs the user to the appropriate FTP Committee decision notice. No indication appears on the registrant's public record to show any previous warnings, conditions, suspensions or erasures that are no longer in force. The decisions of the public FTP Committee hearings are, however, currently in the public domain, and are published on the GOC's website.

CHRE recommended that regulators should work towards making information about expired warnings and sanctions available on records on the public registers. Including this information directly on the registers would require changes to the GOC's Registration Rules. CHRE argued that public protection is served by easy access to information about the fitness to practise of health professionals, including information about previous impairments.

Consultation feedback

The majority of responses (17 of 25, including ABDO, AOP, FODO, IGA and the body corporate members of the GOC companies Committee) were opposed to the GOC including information regarding expired warnings and sanctions on the public registers. Six responses were unsure, although most of these were also generally against including expired sanctions on the registers, except perhaps for a limited period of time.

Most consultation responses argued that that once a fitness to practise sanction is 'spent' and the registrant judged fully fit to practise, it was not proportional for the optical professions for that information to continue to appear directly on their record on the public registers. Many responses cited the potential detrimental effect on a practitioner's career and potential for

confusion or misinterpretation by members of the public from this information being linked to the registrant's public record.

AOP and FODO noted that warnings, conditions and suspensions are applied by the FTP Committee for a specific period of time. They considered that if notice of past sanctions were to remain visible on registrants' public records after that period, it would be prejudicial to the intention of the warning or sanction. The College considered that in the interests of transparency the fitness to practise history of the registrant should be made available on the registers for a limited period of time.

The broader survey on the GOC registers produced different results to the main consultation. 18 of 38 responses (including 15 of 26 members of the public) to the survey said that they would expect to see registrants' full fitness to practise histories on the public registers. 14 respondents said that this information would not be necessary or appropriate on the registers, and six were unsure. This analysis suggested a difference between public and professional views on this issue, which was also noted during the GOC's registers consultation events in 2009.

GOC comment and response

The Council considered that the arguments regarding including information on past FTP Committee warnings and sanctions on the public registers are finely balanced.

It was noted that there are public protection arguments in favour of displaying expired sanctions in particular on the public registers. As argued by CHRE in its report, there is an argument that protection of the public is served by access to information about the fitness to practise of health professionals, including information about previous impairments. Since the information is already in the public domain, the key issue is around the most appropriate manner of making that information accessible, while avoiding misunderstandings.

It was considered that an appropriately balanced approach would be for information on expired FTP Committee sanctions to be included in a separate historical tab of registrants' online records. This would ensure that the information is appropriately available to those members of the public, employers and others who may wish to be informed.

There are, however, a number of operational issues that would need to be addressed in order for past fitness to practise sanctions to be included on the GOC's public registers in the manner proposed, including requirements to change the GOC's Registration Rules and development of the GOC's IT systems.

The Council determined that including this information on the registers should be a medium-term GOC objective. The timeframe for this work will depend on

organisational priorities and available budget, as well as the evolution of policies among other UK health regulators.

3. Transcripts of past FTP Committee hearings on the GOC website

Context

Currently, copies of the decision notice and transcript of all public FTP Committee and Interim Order hearings since 2005 are permanently available in the 'Past Hearings' section of the GOC website. Earlier decision notices and transcripts have not been uploaded, but can be accessed from the Hearings Manager on request.

These transcripts will appear in general internet search results, sometimes as the first result for a search for an individual registrant, even long after the sanction has expired. There can also be situations where information on third parties at hearings, such as witnesses, can be retrieved by accessing the transcripts via an internet search.

The consultation document sought feedback on whether alternative approaches should be considered, such as making hearings decision notices visible directly on the GOC website only (i.e. inaccessible to general internet searches), and/or available on the website for a set period of time only.

Consultation feedback

The majority of the responses to this question (15 of 22, including from ABDO, AOP, the College, FODO and IGA) considered that the GOC should begin making hearings decisions and transcripts available on the website for a limited amount of time only (such as for the duration of the sanction).

Many responses, including from ABDO, AOP and FODO suggested that a decision on the appropriate period that the decision notice and transcript is available online should be made by the FTP Committee as part of their deliberations. In cases where the registrant's fitness to practise was found to be not impaired, AOP and FODO considered that the decision and transcript should be available for a limited period of time. The College considered that all decisions should be available on the GOC website for five years.

ABDO, AOP, the College and FODO all had reservations about decision notices and transcripts being available via internet search engines. They considered that the GOC should be the sole source of such information, and were concerned about a loss of control of the information if the notices and transcripts are able to be accessed directly from an internet search.

Five responses recommended retaining the current approach, and two recommended publishing the notices permanently on the website, but in such a way that they would not appear on internet searches.

GOC comment and response

The Council considered that the GOC's approach to the accessibility of decision notices and information on the registers should be aligned. The most effective means of aligning the GOC's policies regarding the accessibility of past FTP Committee decisions at this time would be to limit the period that decision notices and transcripts are available on the GOC website.

The Council determined that decision notices and transcripts should be published in the 'Past Hearings' section of the GOC website only while the sanction is in force. In the case of hearings where no impairment is found, the decision notice and transcript will be removed after one year. Decision notices and transcripts will remain publicly available on request.

4. Other register accessibility issues

Context

The CHRE report recommended that regulators work to maximise the contribution that their registers can bring to public protection by improving the accessibility and usefulness of their websites and online registers.

Consultation feedback

The online registers survey has also provided some useful information on how the registers are currently being used. Most respondents reported being able to easily find what they were looking for on the registers (19 of 26 responses). The main issue reported by negative respondents was the inability to search the individual registers by location and by specialty.

During the 2009 consultations and through the online registers survey, the GOC also received a number of suggestions to improve the general accessibility and usability of the registers, in particular improving search functionality in relation to the location of individual registrants, and improving the awareness of the registers among the public.

GOC comment and response

The Council agreed that the GOC's online public registers would be more accessible and useful for our users if the search features were improved. In particular, we consider that users should be able to search for opticians with particular specialties, and to search for individual registrants in a particular location.

The GOC intends to prioritise improving the search functionality of the GOC website. Specific timelines and budgets for this work are currently being developed, in consultation with IT suppliers. We hope to be able to implement these improvements early in 2011.