

Licence to Practise consultation

Please offer your views on whether a Licence to Practise should form part of the GOC's revalidation scheme.



About the General Optical Council

Introduction

The General Optical Council (GOC) is one of 13 organisations in the UK known as health and social care regulators. These organisations oversee the health and social care professions by regulating individual professionals. We are the regulator for the optical professions in the UK. The Council currently registers around 23,500 optometrists, dispensing opticians, student opticians and optical businesses.

Mission and values

The GOC's mission is to protect the public by promoting high standards of education, conduct and performance amongst opticians. Our work is built on a foundation of six core values. These values are based on the Better Regulation Commission's criteria for good regulation.

Proportionate:

We will identify and target the issues of greatest risk to public safety.
We will remove unnecessary bureaucracy.

Accountable:

We will seek, and respond to, the views of stakeholders and partners.
We will consider and review the consequences of our actions.

Consistent:

We will work in collaboration with UK health regulatory bodies and other partners to develop consistent policies and procedures.

Transparent:

We will explain and publicise decisions, and make public, wherever possible, Council information, activities and proceedings.

Targeted:

We will ensure that our activity is focused on the areas of greatest risk, or where there is most benefit to public health and safety.

Organisational Excellence:

We will provide good value for money.
We will pursue high standards of customer service.
We will ensure that the Council is a good place to work, particularly through developing and training our staff and members.
We will promote and develop equality and diversity in all our work.

Responding to the consultation

Respond to

Please submit your views by **4 June 2010** through the form on the GOC website, to gtinsley@optical.org or in writing to Grahame Tinsley, General Optical Council, 41 Harley Street, London W1G 8DJ.

We are seeking your views on the arguments and options in this paper. We will need to decide in June 2010 whether to introduce licences to practise in order to inform the Department of Health of the changes required to the Opticians Act 1989 by the summer 2010. This will allow for such changes to be made in time to implement revalidation from 1 January 2013.

Please include contact details so that we can follow-up any relevant aspect of your response. Unless you state otherwise (and an automatic disclaimer generated by your IT system will not be taken as such), we will assume you are happy for us to publish your response and to share it with other appropriate bodies and stakeholders.

In addition to this written consultation, the GOC will be hosting a seminar on 25 May 2010 on the topics covered in this document.

Where possible, please provide evidence to support your response. If you are a representative group, it would be helpful if you could include a summary of the people and organisations that you represent.

A copy of this consultation has been sent to a large number of stakeholder groups representing our registrants, the public, patients, partner organisations and other groups.

If you have any queries about the consultation then please contact **Grahame Tinsley** using the contact details above.

Our commitment to consultation

We believe it is important that the people affected by our work have a say in how we deliver it. We believe it is vital to consult with all the groups with an interest in the GOC; patients, the public, our registrants, optical organisations, healthcare organisations, employers, other regulators, staff and other stakeholders.

How we consult with our stakeholders is set out in our *Consultation Framework*, available in the consultation section of www.optical.org

Feedback on the consultation process itself would be welcome. If you have any comments then please contact **Simon Grier** on sgrier@optical.org

GOC Licence to Practise consultation

Start date: 23 April 2010

End date: 4 June 2010

Results published: Council decision on 17 June 2010

Contact: Grahame Tinsley. 020 7307 3477, gtinsley@optical.org

Purpose of the consultation

1. We are asking you about:

[i] Who should be revalidated;

[ii] Whether licences to practise should or should not be introduced; and

[iii] If we introduce licences to practice, for whom should they apply?

2. The consultation document contains questions on the arguments for and against these three options for a license to practise. We would like to hear your views on these options, and any additional comments that you may have on our proposals.

Introduction

3. In March 2009, we issued *Revalidation: initial consultation*. This consultation document outlined our initial views on what a revalidation scheme for dispensing opticians and optometrists might look like. One of the key ideas outlined in that consultation document was that revalidation would only apply to those registered optometrists and dispensing opticians who are active in clinical practice. This would be signified by practising dispensing opticians and optometrists being required to have a 'licence to practise' in addition to being registered with the GOC (see extract below). This current consultation explores in further detail the scope of revalidation, and we would like your views on the options and arguments set out in the consultation document.

Extract from *Revalidation: initial consultation*

“Revalidation will apply to all those optometrists and dispensing opticians who are active in clinical practice. Those who are on the register but who are not practising will not be required to be revalidated. This is because those who are not active in clinical practice pose no actual risk to patients, and hence it would not be proportionate to require such registrants to be revalidated so long as they continue to remain clinically inactive.

Whilst it could be argued that the register need only consist of those who are active in clinical practice, and hence all registrants should be subject to revalidation, the GOC sees that there is public benefit for many non-practising optometrists and dispensing opticians maintaining their registration. Some are in positions of authority in optical businesses and academia, and it remains in the public interest that such persons should be subject to the GOC’s Code of Conduct for Individual Registrants, and fall within the scope of the GOC’s jurisdiction on Fitness to Practise matters.

As such, the GOC will seek the legislation required for registrants who are practising to be issued with a licence to practise. Those on the register who are not practising and not subject to revalidation will not be issued with a licence to practise. This mirrors the approach being taken to revalidation by the General Medical Council (GMC).

The ability to perform protected functions without committing a criminal offence will continue to be linked to registration. However, where a registrant performs such functions without possessing a licence to practise this shall be treated as adversely affecting their fitness to practise. The GOC will seek the legislative change to enable this. Further consideration will need to be given as to how the GOC will deal with registrants who are returning to practice after a significant break, and the basis on which such registrants are issued with a licence to practise.”

The full report can be viewed at:

http://www.optical.org/goc/filemanager/root/site_assets/consultation_documents/goc_initial_consultation_on_revalidation.pdf

The options and arguments

Option 1: Only those who are active in clinical practice are revalidated

The argument from risk

4. The Government's White Paper, *Trust, Assurance and Safety*, stated:

Revalidation is necessary for all health professionals, but its intensity and frequency needs to be proportionate to the risks inherent in the work in which each practitioner is involved (section 2.29, p.37¹)

5. In developing our revalidation proposals, we have always been mindful that revalidation must be proportionate to risk, and targeted towards those areas where there is evidence that patients and the public are most at risk. To this end, we commissioned Europe Economics², to identify the key risks involved in optical practise, and the implications of this for revalidation. This research can be found on our website³.

6. The focus of Europe Economics' research was on practitioner risk. Such risks do not apply to those dispensing opticians or optometrists who are not active in clinical practice, e.g. those in solely managerial or administrative roles, in pure research, in education without clinical teaching responsibilities, or who are retired.

7. We have not commissioned research into the risks to patients or the public associated with some of the non-clinical roles that dispensing opticians and optometrists typically undertake. However, given that revalidation is about registrants demonstrating that they are and continue to be *fit to practise* as an optometrist or dispensing optician, it is not clear that it is the role of the regulator or for a revalidation process to concern itself with such risks.

8. If the above is accepted, it would not be proportionate to the risks involved to require those optometrists and dispensing opticians who are not active in clinical roles to undergo revalidation. Of course, should such persons change roles and become active in a clinical position, no matter how temporary or occasional that might be, revalidation would be necessary. We would expect such registrants to inform us immediately when their status changed in this respect; but, for as long as such registrants remain inactive in clinical practice, revalidation would not be necessary.

The argument from public benefit

9. Under the Opticians Act 1989, the primary objective of the GOC is to protect, promote and maintain the health and safety of members of the public (see section 1(2A))⁴. Would allowing those non-practising optometrists and dispensing opticians who are not subject to revalidation to remain registered with the GOC do anything to protect, promote and maintain the health and safety of members of the public?

1 http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_065947.pdf

2 Europe Economics provides consultancy services in economic regulation, competition policy and the application of economics to public policy and business issues,

3 http://www.optical.org/en/about_us/revalidation/index.cfm

4 http://www.optical.org/goc/filemanager/root/site_assets/legislation/act_part1.pdf

10. All of our registrants, whether or not subject to revalidation, would continue to be required to declare criminal convictions to us, demonstrate that they have adequate and appropriate insurance, be subject to the Code of Conduct for Individual Registrants, meet certain requirements for Continuing Education and Training (CET), and be subject to fitness to practise procedures in the event that an allegation is raised that their fitness to practise may be impaired.

11. Arguably, there is public benefit for those in managerial positions in optical practices, or in positions of authority in academia, but who are not clinically active, being subject to the GOC Code of Conduct and falling under the remit of our fitness to practise procedures. A number of the standards in the Code of Conduct would apply equally to professional responsibilities for both those in clinical and non-clinical roles and impact upon the standard of care that patients receive, even if those individuals do not themselves have direct contact with patients. For example, the following standards may underpin how someone in a purely managerial position in an optical practice approaches their work, and enhance public confidence:

- Be honest and trustworthy
- Ensure that financial and commercial practices do not compromise patient safety
- Respect and protect confidential information
- Act quickly to protect patients from risk where there is good reason to believe that you, or a colleague, may not be fit to practise, fit to undertake training, or in the case of a business registrant fit to carry on business as an optometrist, dispensing optician or both
- Never abuse your professional position
- Work with colleagues in the ways that best serve patients' interests
- Ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession

12. A further consideration is the impact upon corporate body (optical businesses) registration. In order to register as a body corporate with the GOC, a majority of directors of the company have to be registered as an individual with the GOC⁵. In many large optical practices, such individuals are likely to be in purely managerial roles. Should such individuals be subject to revalidation, there is the possibility that some will resign both themselves and their company from the register. This would mean that neither the individual nor the company could use protected titles (optometrist, dispensing optician, optician etc.) but could still carry on trading as long as sight testing, fitting contact lenses, and other protected functions were performed by other registered individuals within the practice.

13. To put in place a regime that would act as a disincentive to both senior individuals within optical practices and companies registering with the GOC would arguably not be in the public interest. The public can be assured when

5 Section 9(2)(a) - http://www.optical.org/goc/filemanager/root/site_assets/legislation/act-part2.pdf

using a business with a protected title in its name that the management of the company has controlling influence from registered individuals who are subject to the Code of Conduct for Individual Registrants, that the company itself is subject to the Code of Conduct for Business Registrants, and that both the individuals concerned and the company falls under the remit of our fitness to practise/fitness to undertake business processes should any relevant concerns arise. Therefore, to put in place a system of revalidation that would discourage senior individuals and companies from maintaining registration with us, could result in a weakening of the protection we afford the public through the regulation of individuals and companies.

Conclusion

14. The argument from risk together with the argument from public benefit suggests that:

- (a) It would be disproportionate to subject those in non-clinical roles to revalidation given the low level of risk to the public;
- (b) There is public benefit to those in non-clinical roles maintaining their GOC registration;

Therefore, (c) Those in non-clinical roles should not be subject to revalidation but should be able to maintain their registration.

15. If this conclusion is accepted, the public, employers, and other practitioners would still need to know which individuals on the register had been revalidated. There would also need to be restrictions placed on the functions that those who are not subject to revalidation can perform. By indicating those on the register who are subject to revalidation as having a 'licence to practise', this would provide the basis for a single register being maintained with a clear signpost to those on the register who have been revalidated and who are able to perform certain functions. We would seek legislative change such that the performing of protected functions without a licence to practise will be treated as adversely affecting a registrant's fitness to practise.

16. Whether or not registrants should be physically issued with a licence to practise, or whether there should just be a signifier on the register as to who (or who does not) have a licence is not the subject of this paper. Consideration would also have to be given as to the method chosen for granting licences to registrants who return to practice after a significant break, the cost of issuing licences and the public benefit in doing so, should we decide to pursue the licence to practise concept as part of revalidation.

Option 2: All registrants are revalidated

The argument from simplicity

17. So far, being on the register of optometrists or dispensing opticians has given a straightforward degree of assurance that the registrant is both qualified and has been deemed at the point of registration to be fit to practise. However, by saying that some registrants will have to demonstrate periodically that they are fit to practise, and others not, as argued above, different degrees of assurance are being provided depending on whether a person is registered with a licence to practise or simply has registration alone. Patients, members of the public, employers and others may find this confusing and not understand the distinction. It may not be obvious that certain registrants only are allowed to perform certain functions, whilst others cannot, despite being entitled to use the same professional titles. This would dilute public protection, in that the public needs a regulatory system it can understand, and where it can be assured that all registrants are up-to-date and fit to practise the core functions of an optometrist or dispensing optician, irrespective of what actual roles individuals using those titles undertake.

18. On this basis, anyone on the register of optometrists or dispensing opticians should be required to be revalidated, and the concept of registration, not that of licence to practise, provides the assurance to the public that such individuals are up-to-date and fit to practise.

The argument from cost

19. We do not currently hold information on the number of registrants who are active in clinical practice and those who are not. However, we believe that the vast majority of our registrants are clinically active. This means that making the distinction between those registrants with a licence to practise who are subject to revalidation, and those who are not, would only benefit a small number of registrants by exempting them from revalidation. To introduce licences to practise would require both extensive legislative change, incurring expense to us and the Department of Health. Furthermore, we would have additional administrative costs in dealing with two classes of registrant, i.e. those who are practising and those who are not, with an additional declaration needing to be processed as part of the registration procedure, and potentially increased fitness to practise costs to deal with those who practise but who have not got a licence. On this basis, it is doubtful that the benefits to public protection of implementing a licence to practise system for registrants would outweigh the costs.

Conclusion

20. The argument from simplicity together with the argument from cost suggests that:

- (a) Public protection is best served if all registrants are revalidated;
- (b) The costs of introducing a licence to practise system, where a small number of registrants are not revalidated, would outweigh the benefit to public protection afforded to those registrants who are not subject to revalidation

Therefore, (c) All registrants should be revalidated.

Option 3: All registrants are revalidated but to different degrees

The arguments from risks and public benefit revisited

21. It can be argued that there is no contradiction with the conclusion of Option 2 (all registrants should be revalidated) and the idea that revalidation should be risk-based and proportionate. This is because certain standards apply to any professional, irrespective of their role, and the public would expect all professionals to exhibit these standards in their dealings with them. It has already been mentioned that certain standards in the Code of Conduct are not limited to clinical roles (see paragraph 16 above), and there are certain competency standards that apply across all roles (e.g. some of the competencies in areas such as communication and professional conduct). Whilst it may not be proportionate to require everybody to be revalidated against every competency area, it does not follow that some registrants should not be revalidated at all, in particular against those areas which are relevant to every registrant by virtue of what the public expects from professionals in general. Rather, those registrants who are not clinically active should be revalidated, but only in those areas that are relevant to all registrants.

Conclusion

22. Under this option, the arguments for Option 2 can be accepted, but an additional premise is added to ensure that revalidation is sensitive to risk and proportionate. Therefore, the following is argued in favour of this option:

- (a) Public protection is best served if all registrants are revalidated;
- (b) The costs of introducing a licence to practise system, where a small number of registrants are not revalidated, would outweigh the benefit to public protection afforded to those registrants who are not subject to revalidation;
- (c) There are some standards against which all registrants should be revalidated, irrespective of whether they are in clinical practice

Therefore, (d) All registrants, irrespective of whether they are in clinical practice, should be revalidated.

Consultation response form

How to respond

Please send your responses to **Grahame Tinsley**, Assistant Director of Standards, no later than **4 June 2010**.

Post: 41 Harley Street, London, W1G 8DJ

Email: gtinsley@optical.org

Alternatively, visit www.optical.org where you will find an electronic version of this form.

Response form template

Your Details

Name:

Address:

Telephone number:

Email:

Are you replying on behalf of an organisation?

Name of the organisation:

Your position:

Nature of the organisation's work:

Keeping in touch

Because we value your input, we would like to contact you occasionally to let you know when we launch consultations and to invite you to future events. We will not pass your data on to any third party. Please tick here if you do not wish to be contacted in this way about the GOC's consultations:

We are seeking your views on the arguments and options in this consultation document. We will need to decide whether to introduce licences to practise in June 2010 in order to inform the Department of Health of the changes required to the Opticians Act 1989 by the summer 2010. This will allow for such changes to be made in time for revalidation to be implemented from 1 January 2013.

In particular, we would like your views on the following:

The argument from risk

Do you agree that it would not be proportionate to the risks involved to subject those who are not clinically active to revalidation?

Yes / No / Not sure

Comments

The argument from public benefit

Do you agree that there is benefit to the public in allowing non-clinically active registrants to maintain GOC registration without being subject to revalidation?

Yes / No / Not sure

Comments

The argument from simplicity

Do you agree that members of the public, patients, employers and others may find the distinction between being registered with or without a licence confusing, and that this would dilute public protection?

Yes / No / Not sure

Comments

The argument from costs

Do you agree that it is likely that the costs of introducing a licence to practise system would outweigh the benefit to registrants who would be exempt from revalidation as a result?

Yes / No / Not sure

Comment

The argument from risk and public benefit revisited

Do you agree there are some standards against which all should be revalidated irrespective of whether a registrant is active in clinical practice?

Yes / No / Not sure

Comment

Preferred options

In order of preference (where 1 indicates your preferred option and 3 your least preferred option), how do you rate the following options?

- Option 1: Only those who are active in clinical practice are revalidated
- Option 2: All registrants are revalidated
- Option 3: All registrants are revalidated but to different degrees

General considerations

Are there any other factors not covered in this paper that the GOC should take into account when weighing up whether to adopt a licence to practise system?