

GOC GUIDANCE FOR WITNESSES IN FITNESS TO PRACTISE COMMITTEE HEARINGS

The purpose of this guidance document

The purpose of this guidance is to explain what happens if you are asked by the General Optical Council (“the GOC”) to be a witness at a hearing of the Fitness to Practise Committee.

Some witnesses are not asked to give evidence by the GOC but by the optician who is the subject of the hearing (or by the optician’s lawyer). If you have been asked to be a witness by the optician or their lawyer, some of the information in this guidance will not be relevant, and any questions you have about being a witness should be dealt with by the optician (or their lawyer). However we hope that some of the information in the section below about “What happens at the hearing?” will be of interest to you.

Some useful definitions

“Optician” refers to any individual or business registered with the GOC. The GOC currently registers around 23,500 optometrists, dispensing opticians, student optometrists/dispensing opticians and optical businesses. Individual optometrists or dispensing opticians must be registered with the GOC before beginning to practise. In addition, the GOC regulates student optometrists and student dispensing opticians who must be registered with the GOC in order to undertake training.

“Fitness to practise” refers to:

- the fitness to practise of qualified optometrists or dispensing opticians
- the fitness to undertake training of student optometrists or dispensing opticians
- the fitness to undertake business of business registrants (optical businesses that are registered with the GOC).

“Your GOC contact” refers to the member of GOC staff (or staff member of a solicitors’ firm that does legal work for the GOC) who has asked you to be a witness at the hearing.

Why has the GOC asked me to give evidence?

Witnesses who give evidence at hearings of the Fitness to Practise Committee play an essential role in assisting the GOC to carry out its regulatory role. Further information about the role of the GOC (including the Investigation and Fitness to Practise Committees) is provided at the end of this guidance.

When a complaint is made about an optician, the GOC will investigate that complaint, before the Investigation Committee considers what action should be taken. As part of that investigation, your GOC contact may ask you questions about the events that are relevant to the complaint that has been made.

If the Investigation Committee decides that the complaint needs to be dealt with by the Fitness to Practise Committee at a formal hearing, it is likely that your GOC contact will ask you to sign a formal witness statement.

Unless the optician involved in the complaint accepts that what is said in your witness statement is true, it is likely that you will need to attend the Fitness to Practise Committee hearing to give evidence. We have set out below some information about what this means for you.

WHAT HAPPENS BEFORE THE HEARING?

Setting the hearing date

If you are a witness who has been asked to give evidence by the GOC, your GOC contact will ask you about dates when you would be available to attend the hearing. Where possible we will try to make sure that the hearing is held on a date that is convenient for you. However this is not always possible, because there are a lot of people involved in most hearings and it can be difficult to find a date that is convenient for everyone.

Once the hearing date has been set, we try to avoid changing it as that inconveniences everyone involved, including you. Please help us with this by:

- avoiding making other appointments on any date that you have said you would be available to attend a hearing, where possible; and
- updating your GOC contact as soon as possible about any unavoidable changes to the dates on which you would be available.

Your GOC contact will let you know as soon as the hearing date has been set, and will provide you with any information you need about travelling to the hearing and claiming expenses.

Your GOC contact will also ask you whether at the hearing you will wish to take a religious oath upon a holy book, or to affirm the truth of the evidence that you will give. If you will wish to take a religious oath on a holy book at the hearing, please identify which holy book would be appropriate, so that the GOC can make arrangements for it to be available at the hearing.

If you have been asked to give evidence by the optician (or their lawyer), they will be responsible for contacting you about the arrangements for the hearing.

Witness summonses

Sometimes the GOC serves a Court summons on a witness, which means that if the witness then does not attend the hearing, legal action may be taken. The GOC is only likely to serve a Court summons on you if either you are not willing to attend the hearing, or you are having difficulties getting time off work to attend the hearing.

Help that is available for those with disabilities/in need of other support

If you have a disability, communication difficulties or other needs, please discuss this with your GOC contact (or if you have been asked to give evidence by the optician, with them or their lawyer) as soon as possible, so that we can make appropriate assistance available to you on the day of the hearing (for example, arrange for a sign language interpreter to attend or, if you are visually impaired, arrange for written information to be made available in a different format).

If you have a disability, illness or a condition such as a mental health problem, a learning disability, a physical disability or you experience difficulty in social situations, this may affect how you give evidence. The way in which you give evidence may also be affected if you are the victim of a complaint about sexual matters, or if you feel intimidated due to your age, gender, race, cultural background or sexuality. If you have any concerns about giving evidence at the hearing for one of these reasons, please alert your GOC contact (or if you have been asked to give evidence by the optician, with them or their lawyer) to this as soon as possible. They will discuss the situation with you, and will let you know if there is any way that we can help you to give your evidence.

We understand that being a witness can be a stressful experience. If you feel that you need more help or advice, you may want to speak to someone who is independent of the GOC. One organization you may wish to approach for advice is WITNESS, who can be contacted at: <http://www.popan.org.uk/index.htm>.

WHAT HAPPENS AT THE HEARING?

Where are hearings held?

Most hearings are held at the GOC's office at 41 Harley Street, London, W1G 8DJ. You can find information about how to get to the GOC's office on our website, <http://www.optical.org>. The office is located close to Oxford Street in central London. The nearest Underground stations are Oxford Circus, Bond Street, and Great Portland Street.

A small number of hearings are held at other venues close to the GOC's office. Your GOC contact (or if you have been asked to give evidence by the optician, the optician or their lawyer) will tell you where the hearing is going to be held and what time you should arrive when they confirm the date of the hearing. Please make sure that you leave yourself plenty of time to travel to the hearing.

If you are a witness who has been asked to give evidence by the GOC and you arrive at the GOC's office before the hearing starts, the GOC's lawyer will introduce themselves to you and answer any questions you may have. If you arrive after the hearing has started, you may not have a chance to speak to the GOC's lawyer before you are asked to give your evidence.

Who will be at the hearing?

Fitness to Practise Committee members

There are usually 5 Committee members on the panel at the hearing, including 2 opticians and at least 2 lay people (ie people who are not opticians). Their role is to hear the evidence and make decisions. The Chair of the panel is always a lay person.

The Legal Adviser

An independent senior lawyer, whose role is to provide legal advice to the Committee and assist the Chair in making sure that the hearing is conducted fairly. The Legal Adviser does not play any role in the Committee's decision-making.

The GOC's lawyer

The GOC's lawyer is responsible for presenting the evidence that the GOC has gathered about the complaint. They will be the first person to ask you questions when you give evidence. If you have been asked to give evidence by the GOC, this person may also be your GOC contact.

The optician(s)

The complaint may involve one or more opticians. Some opticians choose to attend their hearing, and some choose not to attend. If an optician does attend the hearing, they may say nothing at all, or they may give evidence to the Committee.

Sometimes opticians do not use lawyers to represent them at the hearing. In that event it is the optician who will be presenting their evidence to the Committee and asking the witnesses questions.

There are some circumstances in which the optician will not be allowed to ask you questions directly, for example if the complaint is that you have been the victim of sexual misconduct by the optician.

If you have any concerns about the possibility that it may be the optician who asks you questions when you are giving evidence, please discuss this with your GOC contact at an early stage.

The optician's lawyer

If the optician instructs a lawyer to represent them, that person will present the optician's case to the Committee. They will also be the person asking the witnesses questions on the optician's behalf.

The transcriber

The GOC arrange for a transcriber to take notes of the hearing so that we have a full record of what was said.

The Hearings Manager

The GOC's Hearings Manager attends every hearing to provide administrative support to the Committee. He is also the person who is responsible for arranging hearing dates.

The Hearings Manager is not involved in the Committee's decision-making.

Witnesses

Either the GOC or the optician may ask a witness to give evidence at a hearing.

Observers

Most hearings are held in public, which means that there may be members of the press or members of the public there.

Waiting to give evidence

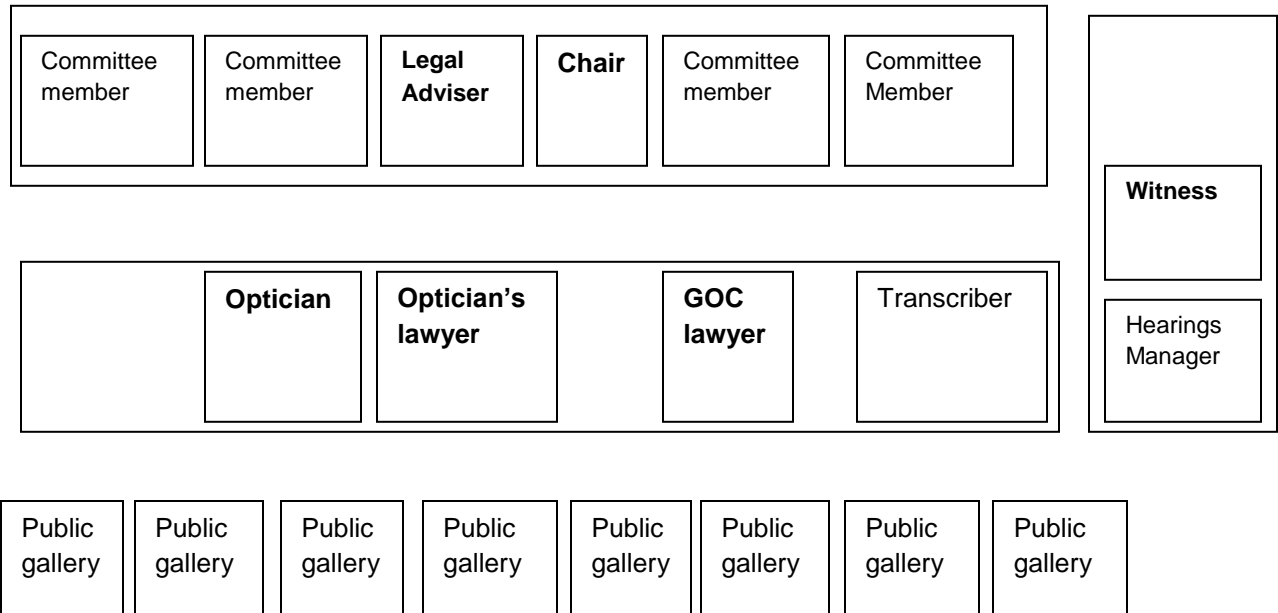
Witnesses are not allowed to go into the hearing room until it is time for them to give evidence. This is to make sure that their evidence is not influenced by anything that is said by anyone else.

On the day of the hearing you will be asked to wait until it is time for you to give evidence - either in a separate meeting room, or outside the hearing room itself. Your GOC contact will have sent you a copy of your witness statement, and you may wish to bring it with you and read it through to refresh your memory before you give evidence.

It is very important that you do not talk about the case with any other witnesses before you have given your evidence. We try to make sure that hearings run on time, but sometimes delays occur as a result of unexpected problems once the hearing starts (for example sometimes legal arguments have to be dealt with before witnesses can be called to give evidence). It is therefore possible that you may have to wait a long time before you give evidence. On some occasions we have to ask witnesses to come back on a different day. If you have been asked to give evidence by the GOC, the GOC lawyer/your GOC contact will keep you updated about the hearing timetable on the day. We recommend that you bring a book or magazine with you so that you have something to read while you are waiting.

Hearing room layout

The room in which the hearing is held is usually laid out in the way set out below:



What happens when you give evidence?

When it is your turn to give evidence the Hearings Manager will collect you from the waiting area/meeting room and take you to the hearing room. You will be asked to stand behind the witness table while you either take a religious oath on a holy book or affirm the truth of the evidence that you are going to give. You will then be asked to sit down. The Chair of the Committee will usually introduce the Committee members so that you know who each of them are.

If you have been asked to give evidence by the GOC, the GOC's lawyer will then ask you to state your name and address before giving your evidence. The questions they ask you will usually be based on the witness statement you have made, although sometimes it is necessary to ask questions about additional matters. Once they have finished asking you questions, the optician's lawyer will then have an opportunity to ask you questions or challenge what you have already said (this is called cross-examination). The Committee themselves (or their Legal Adviser) may also ask you some questions. Finally, the GOC's lawyer or the optician's lawyer may ask you some further questions (although this is not always necessary). If you have been asked to give evidence by the optician, the process is the same, except that the first person to ask you questions will be the optician's lawyer (and they will also have an opportunity to ask you any questions at the end).

Please make sure that when you are giving evidence you speak clearly and slowly so that everyone can hear you and that you answer the question that you have been asked. If you are not sure that you understand a question, then ask for it to be repeated

or made clearer for you. If you do not know the answer to a question, you should say so. If you are asked a question about a document, the person asking you the question will usually show you a copy of that document. Make sure that you take as much time as you need to read the document before answering the question.

Adjournments

We try to make sure that there is enough time for you to finish giving your evidence on the same day. However sometimes it is necessary for that day's hearing to end (or "adjourn") before you have finished giving your evidence (each day's hearing usually ends by 5pm). That could happen if the optician's lawyer or the Committee have a lot more questions for you than we expected, or if you were only able to start giving evidence late in the day. If that happens, your GOC contact will liaise with you about when you will have to come back to finish giving your evidence.

Until you finish giving your evidence you remain "under oath" - which means that you must not discuss the case or your evidence with anyone (whether they are involved in the hearing or not).

What happens after you have given evidence?

After you have answered everyone's questions you will usually be free to leave the hearing. If you choose to leave the hearing you must not discuss your evidence (including the questions you were asked) with any other witnesses who are still waiting to give evidence.

If you wish to stay to observe the rest of the hearing you should take a seat in the public gallery at the back of the hearing room (shown on the diagram above). Please note that the GOC will not be able to reimburse you for any extra costs you might incur as a result of choosing to stay to observe the rest of the hearing (for example if staying to observe means that you miss your train home).

The Committee's decision

The Committee will ask everyone except the Legal Adviser to leave the hearing room when they are ready to begin the process of making a decision. The Committee's decision-making process is divided up into several stages, so they may ask everyone to leave the room on several different occasions before the end of the hearing.

WHAT HAPPENS AFTER THE HEARING?

The outcome of the hearing

If you are a witness who was asked to give evidence by the GOC, your GOC contact will let you know the Committee's decision. If you have not heard from your GOC contact within 2 weeks of the hearing, please contact them for an update. It is possible that the hearing may not have finished.

The Committee's decisions can be accessed from the 'Our Work' section of our website at: <http://www.optical.org>.

Payment of expenses

Witnesses who have been asked to give evidence by the GOC are able to re-claim their reasonable expenses. We have a separate expenses policy that explains what types of expenses can be claimed from the GOC, and what you have to do to make a claim. Your GOC contact will send you a copy of this before the hearing.

Giving us feedback

We want to make sure that we provide enough support to witnesses. If you have any comments or suggestions please complete the feedback form below and send it to us.

BACKGROUND INFORMATION

The role of the General Optical Council

The General Optical Council (“the 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.

The GOC is the regulator for the optical professions in the UK. The constitution, purposes and functions of the GOC are set out in the Opticians Act 1989¹ [insert link].

The GOC is responsible for promoting high standards of professional education, conduct and performance among opticians in order to protect, promote and maintain the health and safety of the public. The main statutory functions of the GOC are to:

- set standards for optical education and training, performance and conduct;
- approve qualifications leading to registration;
- maintain registers of individuals who are qualified and fit to practise, train or carry on business as optometrists or dispensing opticians;
- investigate and act where a registrant’s fitness to practise, train or carry on business is impaired.

The GOC can also take action if the laws in relation to the sale of optical appliances, or the testing of sight, are being broken and where there is a risk to the public. The GOC’s Protocol on the Investigation and Prosecution of Criminal Offences sets out the Investigation Committee’s role in this process and is available from the ‘About Us’ section of the GOC’s website, <http://www.optical.org>.

Fitness to Practise complaints about GOC registrants

Anyone can complain to the GOC if they think a GOC registrant is not fit to practise (or train or run a GOC-registered business). We receive complaints from members of the public, patients, carers, employers, the police and other GOC registrants.

A complaint that a GOC registrant may not be fit to practise can be as a result of one or more of a number of different factors including:

- poor professional performance
- physical or mental health problems affecting their work
- inappropriate behaviour
- being under the influence of alcohol or drugs at work

¹ Available from: http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890044_en_1.htm

- fraud or dishonesty
- a criminal conviction or caution
- a finding by another regulatory body

You can find out more about the GOC's complaints process in the leaflet "How to complain about an optician" which is available from the 'Our Work' section of <http://www.optical.org>

The role of the Investigation Committee

Every complaint that is made to the GOC about an optician's fitness to practise is considered by the Investigation Committee². The Investigation Committee decides whether or not each complaint (a complaint is referred to as an "allegation" in the legislation) ought to be referred to the GOC's Fitness to Practise Committee³ for a hearing.

The Investigation Committee is made up of GOC registrants and lay people (people who are not opticians). Details of the Committee's membership are available from the 'About Us' section of <http://www.optical.org>.

What action can the Fitness to Practise Committee take?

Information about the Fitness to Practise Committee's hearings is available from the 'Our Work' section of <http://www.optical.org>.

If the Fitness to Practise Committee decides that an optician is not fit to practise, they can take one of the following actions:

Order the optician's removal from the GOC register

This is sometimes referred to as 'erasure' or 'striking-off'. The optician's name is removed from the GOC's register (once the period in which they can appeal the order for removal). That means that they can no longer practise/train/run a GOC-registered business.

There is a separate process for considering applications for restoration to one of the GOC's registers by individuals whose names have been removed from the GOC registers as the result of a Fitness to Practise Committee hearing. Details can be found from the 'Our Work' section of <http://www.optical.org>.

² Section 13D(5) Opticians Act 1989

³ Section 13D(5) Opticians Act 1989 and Rule 13 General Optical Council (Fitness to Practise) Rules 2005 (available from: <http://www.opsi.gov.uk/si/si2005/20051475.htm>)

Suspend the optician

This means that the optician's name will be temporarily removed from the register (for a period of up to 12 months), and they will not be able to practise/train until the suspension period has ended.

Impose conditions on the optician's registration

This means that the optician will only be able to continue practising (during the period set by the Fitness to Practise Committee – a maximum of 3 years) if they comply with conditions that the Fitness to Practise Committee sets (such conditions may include a requirement to do specific training or only working under supervision). The Fitness to Practise Committee will review the optician's compliance with the conditions at regular intervals.

Impose a financial penalty

The Fitness to Practise Committee can impose a fine of up to £50,000 on an optician.

If the Fitness to Practise Committee decides that an optician's fitness to practise is **not** impaired the Committee may decide to give the optician a warning about their future behaviour or performance.

Feedback Form

Thank you for helping the GOC to fulfil its statutory duty in dealing with fitness to practise complaints. We recognise that being a witness can be a stressful experience. In order to help us to make any improvements that may be necessary to our processes we would be grateful if you could answer the questions below and return this form by post to:

Fitness to Practise
General Optical Council
41 Harley Street
London
W1G 8DJ

or by email to: goc@optical.org

Your name:

Date(s) you attended the GOC hearing:

Name of optician(s) the hearing was about:

1. Did you find the information in our witness guidance document helpful?

Yes/No (delete as appropriate)

2. Is there anything you think we need to add into our witness guidance document to make it more helpful?

Yes/No (delete as appropriate). If yes, please provide details below:

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3. Did your GOC contact give you enough information about the hearing process?

Yes/No (delete as appropriate)

4. Did you have enough information about who to contact with any questions?

Yes/No (delete as appropriate)

5. Did your GOC contact update you often enough about the hearing schedule?

Yes/No (delete as appropriate)

If you have answered "no" to any of questions 3, 4 or 5, please provide further details below:

GOC contact name:

Details:

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6. Were you given a copy of our expenses policy?

Yes/No (delete as appropriate)

7. Is there anything you think we need to add into our expenses policy to make it more helpful?

Yes/No (delete as appropriate). If yes, please provide details below:

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8. Please let us have your suggestions about any other improvements that we could make:

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9. Did we do anything really well?

Yes/No (delete as appropriate). If yes, please provide details below:

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Thank you for the time you have taken to provide us with this feedback.