

## COUNCIL

### **Raising concerns with the GOC (whistleblowing) policy**

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**Meeting:** 11 November 2015

**Status:** For decision

**Lead responsibility:** Nicola Ebdon, Head of Governance

**Paper author:** Philippa Mann, Compliance Manager

#### **Purpose**

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1. This paper enables Council to review a draft policy on raising concerns with the GOC (whistleblowing). This policy applies to workers in the optical sector (employees, registrants, students/trainees and agency workers) to report concerns to us under the protection of the Public Interest Disclosure Act, in our capacity as a prescribed person. It does not apply to GOC employees and lay members. This is part of our work to fulfil our duties relating to whistleblowing.

#### **Recommendations**

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2. It is recommended that Council:
  - 2.1 **considers and approves** the Raising Concerns with the GOC (whistleblowing) policy (annex 1) for adoption in draft format, whilst we consult and undertake research;
  - 2.2 **considers and approves** our proposal to consult on the policy for ten weeks and undertake research;
  - 2.3 **considers and approves** our proposal to include enhanced information in our 2015/16 annual report on protected disclosures; and
  - 2.4 **notes** progress against the whistleblowing action plan (see paragraph 45).

#### **Strategic objective**

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3. Development of our approach to whistleblowing forms part of the Governance work programme in our 2015/16 business plan, specifically “Embedding an improved process for corporate and member complaints handling, to ensure complaints are dealt with quickly and we learn from feedback received”. This work supports our strategic objectives to improve complaints-handling and deliver high quality services to the public and the professions.

#### **Risks**

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4. The risk associated with the issue, as identified in the Governance risk register is risk A1.03 – a governance risk of not meeting our legal responsibilities in relation to our governing legislation and an external risk of suffering reputational damage as a result. Specifically, this is in relation to compliance with the

Protected Interest Disclosure Act 1998 (PIDA)<sup>1</sup>, and current best practice in relation to whistleblowing. This risk is categorised as a medium likelihood but a high impact.

5. We currently use our investigation processes for Fitness to Practice (FTP) and illegal practice to investigate protected disclosures made to us. There is a risk that we are not identifying all protected disclosures raised with us, or are not investigating them appropriately if they do not fall within our FTP or illegal practice investigatory remit. Although we have not received any to date, we are aware that students may raise a protected disclosure in relation to their educational body, which falls within our regulatory function if their qualification is one which we have accredited as leading to registration. We do not currently have a process for investigating such disclosures. There may be other categories of protected disclosures which we have a duty to consider of which we are not aware. The consultation and research will help clearly identify the categories of protected disclosures within our remit and any potential shortfall within our investigation processes for investigating concerns that fall outside of our FTP and illegal practice investigatory remit, which we may need to develop.
6. There is a risk that our ability to investigate all protected disclosure concerns raised with us is hindered by our legislative framework relating to optical business. Currently not all businesses are legally required to be registered with us and therefore we have reduced investigative powers over unregistered businesses. Registered business have a duty to comply with our standards and provide mechanisms to enable employees to raise concerns about risks to patients. As legislative change is considered unlikely at the present time, the likelihood of this risk materialising is high. In order to mitigate the impact, we have incorporated a referral process and an annex listing contacts for advice and guidance, to ensure whistleblowers are supported and appropriately signposted to those who have legislative power.
7. There is a risk that we may not investigate these concerns in a timely manner, which may affect the whistleblower and may limit the positive impact of learning from such an investigation for an employer or educational body. However, we have powers to impose interim orders where there is a risk to public safety. We are looking to improve the time taken to investigate all complaints through our complaints project, which will include protected disclosures. We intend to complete a desk review of current FTP and illegal practice cases to understand how long we currently take to handle whistleblowing concerns in order to provide assurance in this area.

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<sup>1</sup> [www.legislation.gov.uk/ukpga/1998/23/contents](http://www.legislation.gov.uk/ukpga/1998/23/contents) - The Public Interest Disclosure Act - PIDA

## Background

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8. The PIDA makes special provision for disclosures to 'prescribed persons' which are organisations an individual can approach if they do not wish to make an internal disclosure to their employer or educational body (or cannot), or if they have made an internal disclosure but no action has been taken. These organisations are usually regulators.
9. As of 1 October 2014, the GOC is listed as a 'Prescribed Person' in the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2014. The Order includes a list of all 'Prescribed Persons' and will be updated annually by the Department for Business Innovation and Skills (BIS) to ensure it remains up to date and relevant.
10. We are obliged as a 'prescribed person' under PIDA to put in place a procedure in which workers<sup>2</sup> in the optical sector may raise public interest (protected disclosure/whistleblowing) concerns with us under whistleblowing protection and the PIDA, where they have been unable to raise or resolve those concerns with their employer or educational body. The PIDA gives legal protection to workers against detrimental treatment or dismissal as a result of disclosing information which is in the public interest. The Act offers a right to redress in the event of victimisation if workers raise concerns under the legislation.
11. On 25 June 2013, some key changes to the PIDA came into effect. These were:
  - 11.1 protected disclosures must be made in 'the public interest' (prior to this, disclosures needed to be made 'in 'good faith'). This means any disclosure of information that, in the reasonable belief of the worker, is made in the public interest;
  - 11.2 as a consequence of the new 'public interest' requirement, employees will be prevented from being able to 'blow the whistle' about breaches of their own employment contracts. Employers therefore should ensure that this is explained clearly in their whistleblowing policies and ensure that employees understand that making such a complaint should be done via the employer's grievance procedures; and
  - 11.3 whistleblowers are now protected from suffering detriment, bullying or harassment from another employee. Prior to June 2013, employees who made protected disclosures were protected from adverse treatment only in relation to their employer's activity.
12. A disclosure made to a Prescribed Person is protected where the whistleblower meets the test for internal disclosures and additionally reasonably believes that

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<sup>2</sup> Workers – includes optical sector employees, registrants, students/trainees and agency workers.

the information and any allegation(s) in it are substantially true and is relevant to that regulator.

13. A glossary of terms has been included in our draft policy which can be found on page 13.
14. Optical Sector workers (including registrants) can raise a public interest concern to us, in our role as a prescribe person, in relation to:
  - 14.1 the registration of individuals and businesses registered with us;
  - 14.2 the fitness to practise (FTP) of individuals and businesses registered with us; and/or
  - 14.3 any other activities in relation to which we have functions (including education and training, and illegal practice).
15. A public interest concern is one which discloses criminal wrongdoing/malpractice at work which includes, but is not limited to:
  - 15.1 criminal offences;
  - 15.2 failure to comply with an obligation set out in law;
  - 15.3 miscarriages of justice;
  - 15.4 endangering of someone's health and safety;
  - 15.5 damage to the environment; and/or
  - 15.6 covering up wrongdoing in the above categories.
16. Our investigations team currently investigates public interest (whistleblowing) concerns raised with us through our FTP or illegal practice processes, and refer the concerns on to relevant departments and organisations as appropriate.
17. Within the new GOC standards of practice for individual registrants, the following standard on whistleblowing is listed: 'Promptly raise concerns about your patients, colleagues, employer or other organisation if patient or public safety might be at risk and encourage others to do the same. Concerns should be raised with your employing, contracting, professional or regulatory organisation as appropriate. This is sometimes referred to as 'whistleblowing' and certain aspects of this are protected by law'. Within the standards for businesses, to be reviewed in October-December 2016, the following standard is included on whistleblowing: 'Provide mechanisms to enable those that work for or are otherwise engaged by the business registrant to raise concerns about risks to patients.'<sup>3</sup>

## Research

18. This policy has been developed with consideration of relevant recommendations from the Francis and Hooper reviews, regulators'

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<sup>3</sup> [https://www.optical.org/en/Standards/Standards\\_for\\_businesses.cfm](https://www.optical.org/en/Standards/Standards_for_businesses.cfm)

whistleblowing policies (including the GMC, Monitor, GPHC, HTA and CQC), guidance from Public Concern at Work, and input from across the Executive.

19. We have considered the National Audit Office's Assessment Criteria for whistleblowing policies<sup>4</sup>, to ensure that we have 'excellent' standards in place in our process and policy.
20. The Audit & Risk Committee reviewed this policy on 19 October 2015 and gave feedback which has been incorporated in the policy, including:
  - 20.1 further clarity regarding anonymity and that we discourage anonymous complaints as it prevents us from protecting their identity; and
  - 20.2 the inclusion of the production of example case studies to accompany the policy as part of the desk review.

## Analysis

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### Raising concerns with the GOC (Whistleblowing) policy

21. We have produced a draft policy (**annex 1**) which provides guidance about whistleblowing and making protected disclosures. It includes the procedure in which workers in the optical sector may raise public interest (whistleblowing/protected disclosures) concerns with us under whistleblowing protection and outlines the process that we follow to consider these concerns.
22. This policy does not refer to GOC employees or lay members (who are covered by a separate whistleblowing policy), as there are different legislative responsibilities on the GOC as an employer compared to its role as a prescribed person.
23. Guidance on investigating protected disclosures recommends that the investigations are undertaken as quickly as possible. There is a need for us to ensure our concern handling processes are as quick as possible in dealing with protected disclosures which raise issues of risk of harm to the public. There is currently work being completed as part of our Complaints strategy project to speed up our complaint handling process and we are looking to establish threshold criteria so that particular cases (including protected disclosures) can be escalated when there is risk of harm to the public. We also need to identify how we will investigate other concerns raised with us which fall within our statutory function, for example concerns raised by students relating to educational bodies which are accredited by us.

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<sup>4</sup> <http://www.nao.org.uk/wp-content/uploads/2014/01/Assessment-criteria-for-whistleblowing-policies.pdf>

### Consultation and research

24. We recommend that Council agrees to adopt the policy in draft format, and consult with workers in the optical sector (including registrants), before finalising it. Other regulators, such as the GMC and NMC, chose to consult on their whistleblowing policies. Due to the current sensitivities around whistleblowing and media focus, consultation with our stakeholders is recommended in order to help us understand the perspectives of those working in the optical sector in relation to reducing barriers to reporting, additional situations that we may need to consider and their confidence in and trust that we will support whistleblowers and act appropriately. This will help us to identify if the policy will effectively support workers to raise concerns and if our current investigation processes are appropriate. By consulting we will also raise awareness of the policy. This is consistent with the objectives in our Consultation guidelines. As part of the consultation we will engage with internal stakeholders, such as the hearing panel members and Investigation Committee members.
25. A consultation document and equality impact assessment is presented for consideration by Council (**annexes 2 and 3**).
26. In order to run the consultation between quarterly Council meetings, we intend to run a ten week consultation between **12 November 2015** and **21 January 2016**.
27. During the consultation period we intend to complete a desk review of previous concerns raised with the GOC, in order to ensure we are correctly identifying all protected disclosures and assess whether the policy is appropriate and our investigation processes cover all categories of disclosures we are likely to receive. This review will include gathering feedback from the individuals involved, development of example case studies to accompany the policy and timescales for investigation. The results of the research will be communicated to Council with the consultation responses.
28. Provided the responses to the consultation and the results of the research do not result in significant changes to be made to the policy, it will be presented to Council for approval in **February 2016** and then published in **March 2016**.
29. We will also conduct research as part of the 2016 Registrants survey to raise awareness of the policy and evaluate its impact.

### Annual Reporting

30. The Department for Business Innovation and Skills have issued a guidance to the government for the Enterprise and Employment Bill which recommends implementing specific statutory reporting requirements about protected disclosures. There is no current date of implementation.

31. The Whistleblowing Commission Code of Practice recommends additional items to consider within reporting arrangements.
32. Amendments that we intend to make to the FTP and illegal practice databases will help us to meet any good practice or mandatory reporting requirements that may arise in future.
33. Although there is currently no statutory reporting requirement for whistleblowing (protected disclosures), we include basic figures within our Annual Report and provide some information to the PSA as part of our performance review. We intend to improve the information we report on protected disclosures within our annual report, and will take into account requests from PSA and other relevant bodies, to align our reporting accordingly. We have made a suggestion within our draft policy, which is based on good practice from the Whistleblowing Commission Code of Practice<sup>5</sup> to report the:
  - 33.1 number and type of concerns raised;
  - 33.2 outcomes of investigations;
  - 33.3 feedback from individuals who have used our process;
  - 33.4 number of complaints of victimisation;
  - 33.5 number of complaints of failures to maintain confidentiality; and
  - 33.6 relevant legislation changes.
34. It is recommended that Council considers and approves our proposal to include information in our annual report on protected disclosures (from 2015/16), which is considered to be in line with good practice.

## Impacts

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35. The following implications have been identified:
  - 35.1 **Reserves** – none;
  - 35.2 **Budget** – none;
  - 35.3 **Legislation** – our work must be in compliance with the Public Interest Disclosure Act and related legislation;
  - 35.4 **Resources**:
    - 35.4.1 due to the publication of this policy, there may be an increase in the number of concerns reported to the GOC which may have an impact on resources, specifically managing increased initial assessments or managing increased caseloads which may also impact on our strategic objective of reducing the time for to close cases;
    - 35.4.2 we are developing our CRM capability, to allow for the information to be extracted from the system which will reduce processing time;

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<sup>5</sup> [www.pcaw.org.uk/whistleblowing-commission](http://www.pcaw.org.uk/whistleblowing-commission)

35.4.3 initial training of employees and members will require resources, however this can be delivered within our current resourcing and training will be included within the GOC training menu.

35.5 **Equality, diversity and inclusion (EDI)** – we envisage a positive impact, whereby there are improved avenues to report bullying, harassment or victimisation on the grounds of equality. Additionally, we aim to indicate on our FTP or Illegal Practice databases where any incidents reported to us have an actual or perceived discriminatory element. We will subsequently be able to identify for noting in hearings and also include in our annual EDI report and strategic plan;

35.6 **Human Rights Act** – none; and

35.7 **Sustainability** – we will try and encourage protected disclosure concerns to be made by phone or email in order to reduce paper. We would like to have an online form on the website to be used for individuals to submit their concerns – however the website does not currently have this functionality. We will introduce a specific whistleblowing telephone number which will go directly to the FTP team, where the internal process begins.

## Devolved nations

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36. Whistleblowing legislation in Northern Ireland differs slightly from the rest of the United Kingdom<sup>6</sup>. The difference is noted in bold in section 37.1.

37. For Northern Ireland legislation remains on the basis that in order for a disclosure to a 'prescribed person' to be protected, you must fulfil the following requirements:

37.1 make the disclosure in **good faith**;

37.2 reasonably believe that the information is substantially true; and

37.3 reasonably believe you are making the disclosure to the right 'prescribed person'.

38. An Amendment Order (48) came into effect on 6 April 2014 in Northern Ireland which includes the GOC as a 'Prescribed Person'.

39. This difference has a minimal impact on the process for handling any disclosures.

## Communications

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40. This policy, which will ensure that we conform to the legislation and have a robust concern reporting and handling process, will be published on the website once agreed to make it accessible to the public. Appropriate signposting to the policy will be included on the website.

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<sup>6</sup> <http://www.delni.gov.uk/public-interest-disclosure-guidance-2014.pdf>



41. The new Standards of Practice include a standard on whistleblowing and will help to raise awareness of whistleblowing amongst our registrants.
42. We will communicate the new process internally and provide training briefings regarding identifying protected disclosures and delivering appropriate support for all employees, prioritising those involved in taking calls, handling complaints and compiling reports.

### **Timeline for future work**

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43. We will be using the policy in draft until the final version is approved by Council in **February 2016**.
44. A ten week consultation will run between **12 November 2015** and **21 January 2016**, during which time we will conduct research on protected disclosures received by the GOC and gather feedback from whistleblowers. Provided the responses to the consultation and results of the research do not result in significant changes to be made to the policy, it will be presented to Council for approval in **February 2016** and then published in **March 2016**.
45. We will continue to progress the other actions in relation to whistleblowing as agreed by Council in July 2015, including:
  - 45.1 review and update the current whistleblowing policy for employees and members and present to Council for approval in February 2016;
  - 45.2 train our employees and members in our approach to raising and investigating whistleblowing concerns;
  - 45.3 communicate our policy to the external bodies with whom we work to fulfil our statutory duties (including the OCCS) and ask that their whistleblowing policies are reviewed to ensure consistency;
  - 45.4 publish information in our 2015/16 annual report on protected disclosures;
  - 45.5 develop support and signposting activities to assist registrants in relation to the whistleblowing requirements in our standards;
  - 45.6 input into the standards strategic review in relation to the development of business standards on whistleblowing; and
  - 45.7 ensure our accreditation processes ensure that appropriate training is provided to students to ensure that they are aware of their whistleblowing obligations.

### **Attachments**

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**Annex 1** – Raising Concerns with the GOC (Whistleblowing) Policy – which includes four annexes (Help & Advice, Handling My Concern, Raising a Concern to the GOC, PIDA in Northern Ireland);

**Annex 2** – Equality Impact Assessment; and

**Annex 3** – Consultation Document.



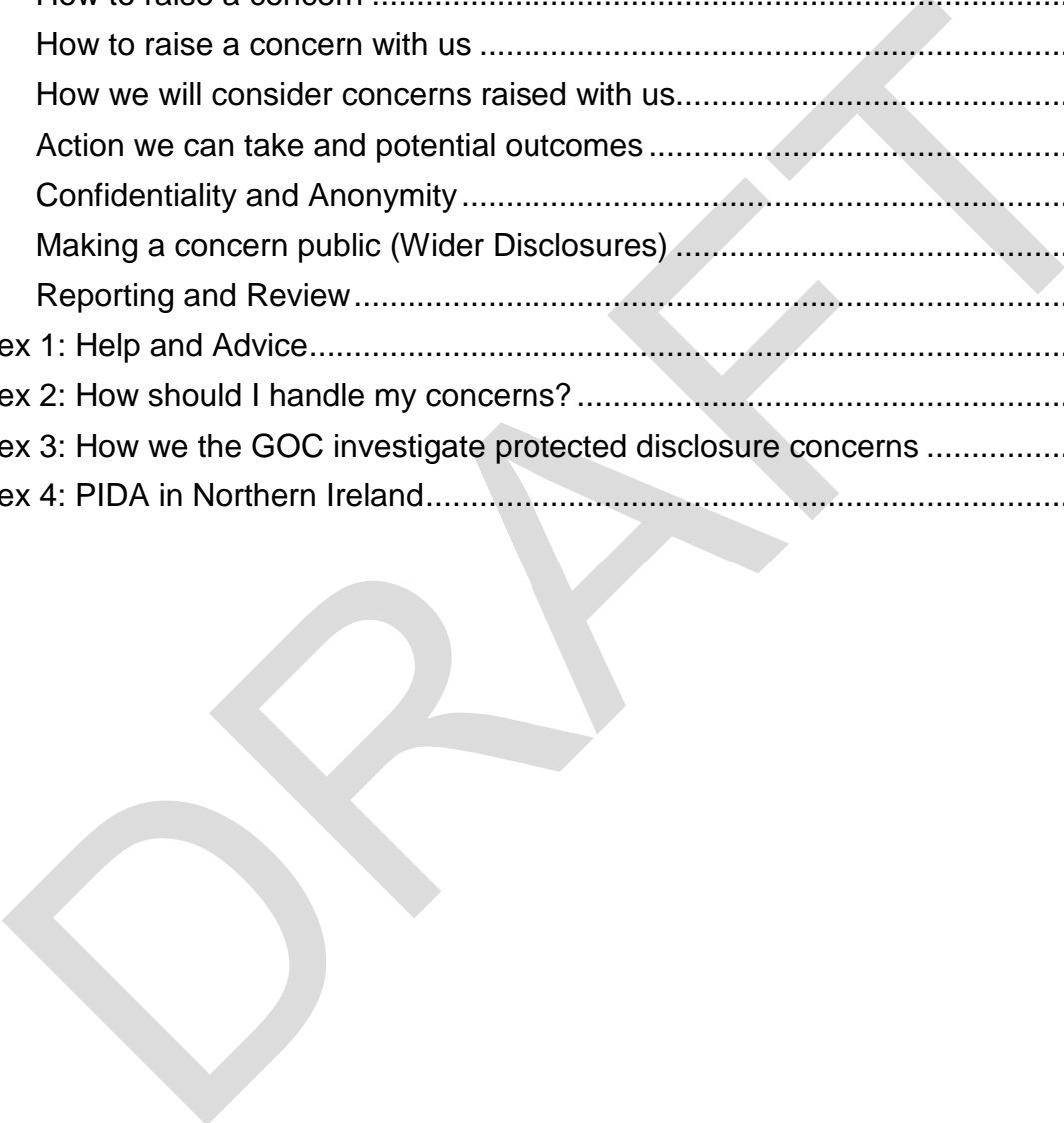
Raising Concerns with the GOC (Whistleblowing)

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## 1. Policy Statement

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- 1.1 We are the regulator for the optical professions in the UK. As at 31 March 2015 we have 29,162 optometrists, dispensing opticians, student opticians and optical businesses. Our statutory role is to protect and promote the health and safety of members of the public by promoting high standards of professional education, conduct and performance among optometrists and dispensing opticians, and those training to be optometrists and dispensing opticians.
- 1.2 We are committed to protecting the public, maintaining high ethical standards and taking all concerns raised with us as a protected disclosure<sup>7</sup> seriously.
- 1.3 We recognise that workers are often the first to realise or suspect that there might be something wrong or unsafe where they work or study. This wrongdoing may jeopardise patient safety or be against the public interest. It is our responsibility, as a prescribed person, to have a system in place for all individuals in the optical sector (workers<sup>8</sup>) to contact us to raise their concerns. This is often referred to as whistleblowing, which is officially known as making a disclosure in the public interest. Such disclosures are protected under whistleblowing legislation.
- 1.4 Within our Standards of Practice for students and fully qualified registrants, all registrants have a duty to raise concerns where they believe that patient safety or care is being compromised by the practice of colleagues, or training, systems, policies and procedures in both the commercial or educational organisations in which they work or study. This must be done at the earliest opportunity. They are also required to encourage and support a culture in which employees can raise concerns openly and safely.
- 1.5 The Public Interest Disclosure Act 1998 (PIDA)<sup>9</sup>, gives legal protection to workers against detrimental treatment or dismissal as a result of disclosing information which is in the public interest. The Act offers a right to redress in the event of victimisation if workers raise concerns under the legislation. Workers who make a public interest disclosure are sometimes known as 'whistleblowers'.

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<sup>7</sup> A 'protected disclosure' is the legal term for whistleblowing which brings about the protection of the PIDA against victimisation.

<sup>8</sup> Workers – includes optical sector employees, registrants, students/trainees and agency workers.

<sup>9</sup> [www.legislation.gov.uk/ukpga/1998/23/contents](http://www.legislation.gov.uk/ukpga/1998/23/contents) - The Public Interest Disclosure Act - PIDA

## 2. Glossary of Terms

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- 2.1 **Public Interest Disclosure Act 1998 (PIDA)** - The Act that gives legal protection to workers against detrimental treatment or dismissal as a result of disclosing information which is in the public interest. The Act offers a right to redress in the event of victimisation if workers raise concerns under the legislation. Workers who make a public interest disclosure are known as whistleblowers.
- 2.2 **Prescribed Person** - A prescribed person is an organisation an individual can approach if they do not wish to make an internal disclosure to their employer or educational body (or cannot) or if they have made an internal disclosure but no action has been taken. These organisations are usually regulators. The GOC is listed as a Prescribed Person in the Public Interest Disclosure Order (Amendment) 2014. The full list can be accessed on legislation website.<sup>10</sup>
- 2.3 **Protected Disclosure** - A “protected disclosure” is the legal term for whistleblowing which brings about the protection of PIDA – meaning that the worker may have right to redress through the employment tribunal should they suffer a detriment (from the employer, educational body or colleagues) or be dismissed from work as a result of making that disclosure.
- 2.4 **Workers** - Includes optical sector employees, registrants, students/trainees and agency workers.

## 3. Scope

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- 3.1 We are obliged as a prescribed person<sup>11</sup> under the Act to put in place a procedure in which workers in the optical sector may raise public interest (whistleblowing) concerns with us under whistleblowing protection<sup>12</sup> provided by the PIDA<sup>13</sup>, where they have been unable to raise or resolve those concerns with their employer or educational body. This policy contains this procedure and outlines the process that we follow to consider protected disclosures. It also provides guidance about whistleblowing and making protected disclosures.

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<sup>10</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431221/bis-15-289-blowing-the-whistle-to-a-prescribed-person-list-of-prescribed-persons-and-bodies-2.pdf)

<sup>11</sup> A prescribed person is an organisation an individual can approach if they do not wish to make an internal disclosure to their employer or educational body (or cannot) or if they have made an internal disclosure but no action has been taken.

<sup>12</sup> Employment Rights Act 1996

<sup>13</sup> [www.legislation.gov.uk/ukpga/1998/23/contents](http://www.legislation.gov.uk/ukpga/1998/23/contents) - The Public Interest Disclosure Act - PIDA

- 3.2 We are a prescribed person under PIDA, to whom protected disclosures can be made on matters relating to:
- 3.2.1 the registration of individuals and businesses registered with us;
  - 3.2.2 the fitness to practise (FTP) of individuals and businesses registered with us; and/or
  - 3.2.3 any other activities in relation to which we have functions (including education and training, and illegal practice).
- 3.3 This policy does not apply to:
- 3.3.1 personal grievances, disciplinary matters, contractual disputes or other aspects of the working relationship, which should be managed informally or formally through an employer's or educational body's grievance or whistleblowing policy;
  - 3.3.2 concerns raised from members of the public (who are not classed as optical sector 'workers') about a registrant's or business' standard of practice. These should be referred to us via our 'complaints about opticians' procedure,<sup>14</sup>;
  - 3.3.3 concerns regarding the way we have conducted a fitness to practise investigation concerning a registrant. These should be referred to us via 'complaints about the GOC' procedure;<sup>15</sup> or
  - 3.3.4 concerns regarding consumer issues, such as refunds or customer service. These should be referred to the Optical Consumer Complaints Service (OCCS).<sup>16</sup>
- 3.4. Whistleblowing is slightly different in Northern Ireland from England, Wales and Scotland. The requirement to make a disclosure in the public interest does not apply in Northern Ireland, instead the requirement is that a disclosure must be made in 'good faith'. The differences are explained further in Annex 4.

#### **4. What concerns can be raised under whistleblowing protection?**

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- 4.1 Concerns that disclose criminal wrongdoing/malpractice at work which include, but are not limited to:
- 4.1.1 criminal offences;
  - 4.1.2 failure to comply with an obligation set out in law;
  - 4.1.3 miscarriages of justice;
  - 4.1.4 endangering of someone's health and safety;
  - 4.1.5 damage to the environment; and/or

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<sup>14</sup> <https://www.optical.org/download.cfm?docid=AEDD9FAF-AB61-4D77-900F082B361FC0BE> – Complaints about an Optician

<sup>15</sup> <https://www.optical.org/download.cfm?docid=B1916A13-6FC0-466C-9FB316315EDFCF3F> – Complaints about the General Optical Council

<sup>16</sup> <http://www.opticalcomplaints.co.uk/> - Complaints about your glasses, refunds or customer service.

- 4.1.6 covering up wrongdoing in the above categories.
- 4.2 Such concerns must be made in the public interest and the whistleblower must reasonably believe that the information is substantially true.
- 4.3 Whistleblowers will be under the protection of PIDA if they raise a concern ('protected disclosure')<sup>17</sup> to the GOC when the:
- 4.3.1 above criteria for whistleblowing is met; and
- 4.3.2 the matter falls within our remit as a prescribed person.<sup>18</sup> Refer to section 3.2 for our remit.
- 4.4 For further confidential advice about whether a concern falls under the whistleblowing protection, you can contact any of the free advice services listed in annex 1.

## 5. Barriers to raising concerns

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- 5.1 All registrants have a duty to raise concerns where they believe that patient safety or care is being compromised by the practice of colleagues or the systems, policies and procedures in the organisations in which they work. This requirement is mirrored within our business standards whereby businesses must provide mechanisms to enable those that work for or are otherwise engaged by the business registrant to raise concerns about risks to patients.
- 5.2 Confidentiality clauses can legitimately be used in a settlement agreement. However, it is important to note that any confidentiality clause between an employer and an employee or ex-employee which seeks to prevent the employee from making a "protected disclosure" in accordance with the Public Interest Disclosure Act 1998 is void and ineffective. This means that settlement agreements cannot be used in an attempt to stop employees from whistleblowing.<sup>19</sup>
- 5.3 All registrants also have a duty to encourage and support a culture in which employees can raise concerns openly and safely. We acknowledge that individuals may be reluctant to report concerns for numerous reasons. For example, they may fear that there will be repercussions in working relationships, on their education, career and career progression, or potentially result in complaints or slander about them. The PIDA was introduced to protect 'workers' against detrimental treatment from colleagues or employers or

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<sup>17</sup> A "protected disclosure" is the legal term for whistleblowing which brings about the protection of PIDA against victimisation.

<sup>18</sup> [www.legislation.gov.uk/ukxi/2014/2418/schedule/made](http://www.legislation.gov.uk/ukxi/2014/2418/schedule/made)

<sup>19</sup> For more information, please see: <http://wbhelpline.org.uk/wp-content/uploads/2012/05/Settlement-Agreements-and-Gagging-Clauses.pdf>

dismissal as a result of any disclosure by them of information in the public interest.

- 5.4 There are free confidential advice and support organisations listed in annex 1 which can provide guidance on whistleblowing.

## 6. How to raise a concern

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- 6.1 We encourage workers to raise concerns internally within their own organisations in the first instance. This could be to a line manager, area or senior manager, HR, or via their employer's whistleblowing policy. For students, this may be their educational body or supervisor.
- 6.2 A flowchart to help understand how a concern should be raised is contained in annex 2.
- 6.3 We are an alternative route for individuals, who have raised a concern within their own organisation and are not satisfied with the response or lack of response from their organisation, or feel unable to raise their concern within their organisation. Individuals in this situation should follow the procedure in section seven to make a disclosure to us.
- 6.4 There may be other prescribed persons with whom a worker in the optical sector could raise a concern, such as another health care regulator, or a regulator of education institutions at which optical sector workers are studying.

## 7. How to raise a concern with us

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- 7.1 Before raising a concern with us, a worker must ensure that the disclosure meets the criteria for protected disclosures set out in section four. We would advise them to seek free confidential advice if required (annex 1) and check that the disclosure can be made under this policy as set out in section three. Workers can contact us at this point for advice if required.
- 7.2 To raise a concern with us, contact us by:  
Telephone: 020 7580 3898 (option 2)  
Email: [concern@optical.org](mailto:concern@optical.org)  
Post: Compliance Manager, General Optical Council, 41 Harley Street, London, W1G 8DJ.
- 7.3 If you require any support or reasonable adjustments when raising a concern, please contact us using these contact details to discuss further.
- 7.4 When raising a concern with us, try to provide as much supporting information as possible. We recommend that you keep a written record of events.



- 7.5 Evidence of criminal wrongdoing/malpractice would be helpful, however a whistleblower does not need evidence before making a disclosure as long as they believe the allegation to be substantially true. It is helpful to the investigation if the individual acknowledges any personal grievance or interest that may arise from the situation.
- 7.6 Due to the sensitive nature of whistleblowing disclosures, we will ask for the whistleblower's consent to share information related to the concern. This may include their identity where necessary for the sole purpose of further investigation. Should the whistleblower decide not to provide their consent to share information or disclose their identity, we may not be able to investigate the concerns properly, or at all. This is because anonymity can limit how we: conduct the investigation, protect a whistleblower's identity, and give feedback to the whistleblower. Further information on confidentiality and anonymity is provided in section ten.
- 7.7 We will always ask for the whistleblower's input on how to investigate the concern and endeavour to incorporate their suggestions into the initial assessment, where possible.

## **8. How we will consider concerns raised with us**

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- 8.1 All concerns that are raised with us are taken seriously. Any information received by us will be treated sensitively and we will investigate the matters raised in a responsible manner, following the investigation process contained in annex 3.
- 8.2 The Act does not require us to investigate every disclosure made to us. For each concern raised with us (including FTP concerns), we will make an initial assessment and decide whether:
- 8.2.1 the concern is within the scope of our regulatory duties;
  - 8.2.2 the concern relates to an individual or business registrant of the GOC;
  - 8.2.3 investigating would make the most effective use of the resources at our disposal in safeguarding the public interest; and/or
  - 8.2.4 we are the right organisation to investigate the concern or another organisation is best placed to deal with the concern.
- 8.3 If the concern is within the scope of our regulatory duties and relates to an individual or business registrant, the concern will be assessed as to whether it amounts to a FTP allegation. If so, the investigation will be conducted in accordance with our FTP Rules.<sup>20</sup>

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<sup>20</sup> [https://www.optical.org/en/Investigating\\_complaints/](https://www.optical.org/en/Investigating_complaints/)

- 8.4 If the concern is within the scope of our regulatory duties, but does not relate to an individual or business registrant or does not amount to an FTP allegation against an individual or business registrant we will consider whether to investigate the concern in accordance with our illegal practice prosecution protocol<sup>21</sup> or refer the concern to another agency such as: trading standards, the Optical Consumer Complaints Service (OCCS), Citizens Advice and the Police.
- 8.5 If the concern falls outside of our remit, we will always endeavour to refer the concern to the appropriate organisation(s) who may be able to assist, or provide the person raising the concern with their details.
- 8.6 We will also assess whether there is enough information in order to initiate an investigation and may make follow-up calls with the person raising the concern to seek further clarity in the assessment of a concern.
- 8.7 We recognise the importance of providing regular feedback to the person raising the concern, and will allocate a single point of contact within our investigation teams for each disclosure. This means there is always an avenue to discuss new or ongoing concerns.

## **9. Action we can take and potential outcomes**

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- 9.1 We endeavour to act quickly on receipt of any disclosures and to begin the initial assessment within two to three working days of receipt.
- 9.2 Once we have made an initial assessment we may:
- 9.2.1 make recommendations for actions to be taken by the employer or educational body<sup>22</sup>;
  - 9.2.2 open an investigation;
  - 9.2.3 identify learning points for one or more organisations and/or individuals;
  - 9.2.4 refer the matter to an organisation with the appropriate responsibilities;
  - or
  - 9.2.5 take no further action.
- 9.3 Outcomes of an investigation can include:
- 9.3.1 warning;
  - 9.3.2 removal from the register ('erasure');

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<sup>21</sup> [https://www.optical.org/en/Investigating\\_complaints/](https://www.optical.org/en/Investigating_complaints/)

<sup>22</sup> Prescribed persons can look into a disclosure and recommend how an employer or educational body could rectify the problems it finds, either in relation to their whistleblowing policies and procedures or in relation to the issues which form substance of the whistleblowing reports.

- 9.3.3 suspension of the registrant;
  - 9.3.4 conditional registration; or
  - 9.3.5 financial penalty.
- 9.4 We cannot:
- 9.4.1 arrange refunds or compensation;
  - 9.4.2 provide legal advice;
  - 9.4.3 provide a detailed explanation of what happened during a visit to an optical practice;
  - 9.4.4 make a GOC registrant apologise to the person making the complaint;
  - 9.4.5 order a GOC registrant to permit a patient to gain access to their optical records; nor
  - 9.4.6 take action in response to false or misleading advertising.
- 9.5 We are committed to resolving all cases disclosed to us in the shortest time possible. Dependent on the nature of the concern, the timeline for closing the case may differ from case to case.

## **10. Confidentiality and Anonymity**

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- 10.1 Whistleblowers may choose to make an anonymous disclosure. Whilst anonymous disclosures are preferred to silence about serious wrongdoing, it is important to consider the restrictions and implications that this will have on the effectiveness of any investigation. This includes limitations on conducting the investigation, protecting a whistleblower's identity, and giving feedback to the whistleblower.
- 10.2 Whistleblowers will be asked for their permission if their identity is required to be revealed to specific individuals for the purpose of investigation. Without their consent, it could mean that we are unable to continue with the investigation.
- 10.3 Following an initial assessment of the concern(s) raised, whistleblowers will be asked for their consent for us to proceed to undertake any initial enquiries identified by the initial assessment. Without their consent to do this, it could mean that we are unable to continue with the investigation.
- 10.4 We will not disclose the whistleblower's identity without consent, unless there are legal reasons that require us to do so. We will tell the whistleblower beforehand if this is the case.
- 10.5 We may also be required to disclose a whistleblower's identity if ordered to do so by a Court, however we would try to limit disclosure, for example by disclosing the requested information only to a judge.

## 11. Making a concern public (Wider Disclosures)

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- 11.1 A worker can consider making their concerns public if:
- 11.1.1 they have done all they can to deal with any concern by raising it within the organisation or contract they work in, and/or with the appropriate external body;
  - 11.1.2 they have good reason to believe patients are still at risk of harm; and
  - 11.1.3 the making the disclosure public does not breach confidentiality.
- 11.2 We recommend that workers seek legal advice before making a decision of this kind as making a public disclosure to the media may jeopardise any entitlement to protection under PIDA.

## 12. Reporting and Review

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- 12.1 Although there is no current legal requirement on the GOC to report on the number of whistleblowing disclosures made to us, we recognise the importance of being transparent. We will therefore report on protected disclosures made to us as part of our annual report.
- 12.2 The Whistleblowing Commission developed a Code of Practice<sup>23</sup> which recommends best practice reporting areas. As such, we will endeavour to complete an annual review of the:
- 12.2.1 number and type of concerns raised,
  - 12.2.2 outcomes of investigations;
  - 12.2.3 feedback from individuals who have used our process;
  - 12.2.4 number of complaints of victimisation;
  - 12.2.5 number of complaints of failures to maintain confidentiality; and
  - 12.2.6 relevant legislation changes.
- 12.3 In addition to reporting the number of disclosures that we receive in our annual report, we will monitor the number of disclosures that we receive and respond to any concerns about how we handle them.
- 12.4 The Governance Team will be responsible for reviewing this policy every three years, taking into account new or changes to legislation and regulations as well as best practice before presenting it for consideration to the Audit and Risk Committee (ARC).

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<sup>23</sup> [www.pcaw.org.uk/whistleblowing-commission](http://www.pcaw.org.uk/whistleblowing-commission)

## Annex 1: Help and Advice

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### Public Concern at Work

Whistleblowing charity, who advise individuals with whistleblowing dilemmas at work

[www.pcaw.co.uk](http://www.pcaw.co.uk)

020 7404 6609

helpline@pcaw.co.uk

### Advisory, Conciliation and Arbitration Service (ACAS)

Provide information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems.

[www.acas.org.uk](http://www.acas.org.uk)

0300 123 1100 (8am-8pm Monday to Friday and 9am-1pm Saturday)

### NHS Whistleblowing Helpline

Provides legally compliant, unbiased support and guidance to ensure you can act in accordance with your values. This ensures you fully understand your options and legal rights specific to your employment situation.

[www.wbhelpline.org.uk](http://www.wbhelpline.org.uk)

0800 0724 725

enquiries@wbhelpline.org.uk

### Citizens Advice

Provide free, independent, confidential and impartial advice to everyone on their rights and responsibilities.

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### Regulation and Quality Improvement Authority (RQIA)

The independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services.

[www.rqia.org.uk](http://www.rqia.org.uk)

02890 517 500

### The Charity Commission for England and Wales

The body responsible for regulating charities in England and Wales. The General Optical Council is a registered charity.

[www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

0300 066 9197

### Professional Standards Authority (PSA)

The body responsible for overseeing nine health and care regulators (including the GOC) who regulate health and care professionals to make sure they are protecting patients and service users properly

<http://www.professionalstandards.org.uk/regulators/overseeing-regulators/concerns-about-regulators>

**Quality Assurance Agency (QAA)**

The independent body entrusted with monitoring, and advising on, standards and quality in UK higher education.

<http://www.qaa.ac.uk/concerns>

**Office of Qualifications and Examinations Regulation (Ofqual)**

The Office of Qualifications and Examinations Regulation (Ofqual) regulates qualifications, examinations and assessments in England and vocational qualifications in Northern Ireland.

[public.enquiries@ofqual.gov.uk](mailto:public.enquiries@ofqual.gov.uk)

0300 303 3344

**We recognise that reporting concerns can be very stressful and upsetting.  
There are services available if you are looking for a friendly listening ear:**

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**Samaritans**

The Samaritans provide a free and confidential listening service, 24 hours a day, 365 days a year. They **do not** provide advice nor do they report your concerns onwards, but sometimes just having someone to talk to that isn't family or friends can be a tremendous help.

For more information of what to expect when you contact the Samaritans, visit:

<http://www.samaritans.org/how-we-can-help-you/what-happens-when-you-contact-us>

Contact the Samaritans on:

[jo@samaritans.org](mailto:jo@samaritans.org)

Phone: 116 123 (UK)

Annex 2: How should I handle my concerns?

You witness something which puts patients at risk or goes against public interest.

Are you in a position to put the matter right?

N

Y

Take appropriate action and keep a record of your actions

Y

Do you also need to report it?

N

**Reporting level 1:** Should you report it using local reporting concerns process? Or can you raise your concern with your manager, supervisor, tutor, or other responsible person in your organisation?

Y

Raise your concern at this level and keep a record of your actions

N

**Reporting level 2:** Can you raise your concern at a higher level with your employer or training provider, within your organisation or elsewhere locally?

Y

Are you satisfied with the response and that your concerns have been addressed?

Y

Always: Keep a record of your concerns and actions you have taken to resolve them

N

**Reporting level 3:** Can you escalate your concern to a regulator or other external body with responsibility to act or intervene?

Y

Can you go to the next reporting level up?

N

It is recommended to seek advice first; you must understand the legal protections available to you and record your actions.

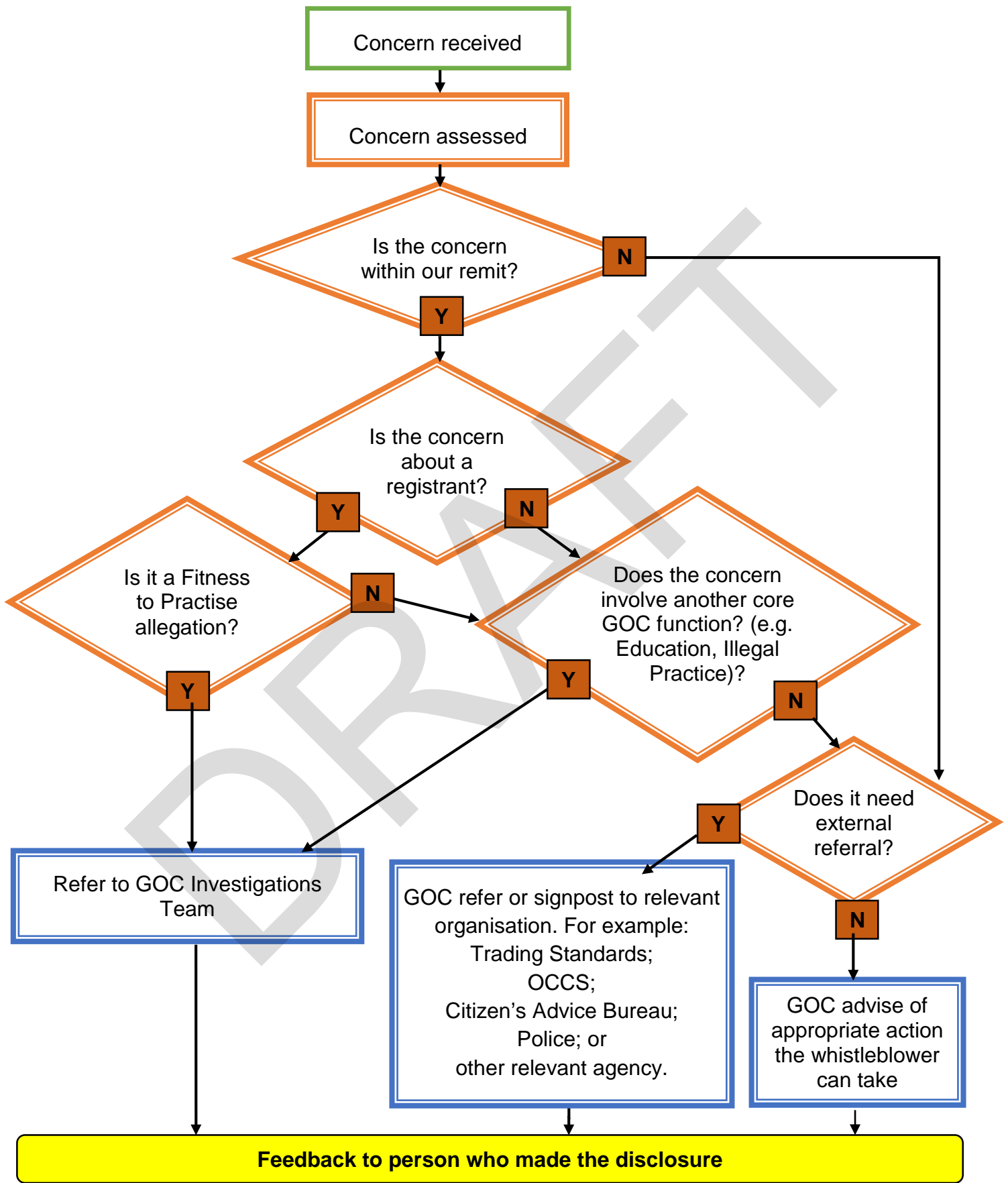
Y

Are you considering making your concern public?

N

For advice on how to raise your concerns further, contact: A senior member of your organisation / education body; the General Optical Council (GOC); the NHS Whistleblowing Helpline; Public Concern at Work; or Citizen's Advice. Record your actions.

Annex 3: How we the GOC investigate protected disclosure concerns





## Annex 4: PIDA in Northern Ireland

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Whistleblowing legislation in Northern Ireland differs slightly from the rest of the United Kingdom.<sup>24</sup>

Previously the UK PIDA requirement was that a disclosure must be made in 'good faith' this was changed to 'in public interest'. However, for Northern Ireland legislation remains on the basis that in order for a disclosure to a 'prescribed person' to be protected, you must fulfil the following requirements:

- make the disclosure in good faith
- reasonably believe that the information is substantially true
- reasonably believe you are making the disclosure to the right 'prescribed person'

This difference has minimum impact on the process of how we will handle any disclosures.

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<sup>24</sup> <http://www.delni.gov.uk/public-interest-disclosure-guidance-2014.pdf>

## Annex 2: Raising Concerns with the GOC (Whistleblowing) Equality Impact Assessment

### Step 1: Scoping the EIA

Name of the policy/function:	Raising Concerns with the GOC (Whistleblowing)
Assessor:	Philippa Mann, Compliance Manager (Governance)
Date EIA started:	September 2015
Date EIA completed	In progress
Date of next EIA review:	December 2016
<b>Purpose of EIA:</b> This EIA is being undertaken because it is a new policy, which involves the public and our employees and organisation.	

### Q1. Has a screening assessment been used to assess which of the equality groups the policy is relevant to?

No, screening has not been completed

(Note: If a screening has not been completed and your policy area is not obviously focused on one or more particular equality group, your assessment must consider all of the equality strands.)

### Q2. What are the main aims, purpose and outcomes of the policy? You should be clear about the policy proposal: what do you hope to achieve by it? Who will benefit from it?

<p><b>Aims:</b></p> <p>The aim of the policy is to outline our procedure for ‘workers’ to raise concerns, under PIDA. We are obliged as a prescribed person under the Act to put in place a procedure in which workers in the optical sector may raise public interest (whistleblowing) concerns with us under whistleblowing protection provided by the PIDA, where they have been unable to raise or resolve those concerns with their employer or educational body. This contributes to the organisation’s core function: to protect the public. The policy encourages all workers to report behaviour that is unacceptable and potentially criminal. It encourages the individual to address the matter internally, however explains that they are able to raise the process to the GOC, a prescribed body, if it comes under specific criteria.</p>
<p><b>Purpose and Outcome:</b></p> <p>This procedure gives workers an avenue to escalate concerns. This procedure applies to all optical sector workers regardless of working arrangements or length of service. This includes temporary and interim workers.</p> <p><b>Outcomes include:</b></p> <ul style="list-style-type: none"> <li>- Providing clarity about the actions workers should take if they witness wrongdoing at work</li> <li>- Providing clarity about potential avenues for guidance and support when considering and raising concerns.</li> <li>- Confirming the duty that workers have to report concerns about wrongdoing, either internally or to us.</li> </ul>
<p><b>Who will benefit:</b> The public, including workers.</p>

**Q3. Which aspects/activities of the policy are particularly relevant to equality?**

At this stage you do not have to list possible impacts, just identify the areas.

<b>Activity/Aspect</b>
• Victimisation
• Training (to support implementation of this policy)
• Access to and understanding of the processes within this policy
• Stress and mental health

**Q4. Gathering the evidence**

List below available data and research that will be used to determine impact on the different equality groups

<b>Available evidence- used to scope and identify impact</b>
<p>The PIDA legislation requires us to have a whistleblowing policy for workers to make protected disclosures.</p> <p>There are a number of external reports within which Whistleblowing in the NHS was investigated such as the Francis Inquiry and the Hooper review, which both demonstrate the need for GOC to have a whistleblowing policy and the importance to understanding the barriers to reporting.</p> <p>Last year we processed 279 FTP investigations. Ten of these are recorded as whistleblowing and two anonymous. Also, two FTP investigations were allegations of discriminatory treatment by registrants, neither of which had further action.</p> <p>Whilst researching different organisation and regulator policies, there were few considerations for the barriers that specific groups may face. There include accessibility and reluctance to report.</p> <p>We have referred to guidance from ACAS, PWCA, NAO, ICO, GMC, GPHC, Monitor, and NMC in order to develop a best practice approach to Whistleblowing under PIDA. We plan to consult with our stakeholders and members of the public for their input.</p>

**Q5. Evidence gaps**

**Do you require further information to gauge the probability and/or extent of impact?**

**Yes:** please explain how you will fill any evidence gaps.

<b>Evidence gap</b>	<b>How will the evidence be collated</b>	<b>Individual or team responsible and timeframe</b>
○ Number of concerns raised as a protected disclosure with us, how we investigated them and how effective was the process	Desk review including whistleblower feedback.	Compliance Manager  Due: December 2016.

**Q6. Involvement and consultation**

<b>Consultation that has taken place, who with, when and how:</b> Consultation is proposed to take place over a ten week period, on agreement by the Council.
<b>Consultation has taken place with the following stakeholders:</b> To be completed.
<b>Summary of the feedback from consultation:</b> To be completed.
<b>Link to any written record of the consultation to be published alongside this assessment:</b> To be completed.
<b>How engagement with stakeholders will continue:</b> This policy will be reviewed in three years' time or upon changes in legislation. Feedback collated will be considered at the review.

Step 2: Assessing impact and opportunities to promote equality

Look at the areas identified in question 3 as being relevant to equality (and any others identified during the evidence gathering or consultation stages) and document in the table below.

**Q7: Using the evidence you have gathered what if any impacts can be identified. Please use the table below to document your findings and the strand(s) affected.**

**Q8: What can you do further to maximise opportunities to further promote equality. Please document below.**

Step 3: Strengthening your policy

**What can be done to remove or reduce any impact identified?**

<b>Topic - Strand</b>	<b>Potential/Actual Impact</b>	<b>Strengthening actions to remove or reduce impact. For actions, include timeframes.</b>
<b>Victimisation - All</b>	If the bullying or harassment is in relation to an individual's age, disability, gender, gender reassignment, race, religion or sexual orientation, it could be very sensitive information and they could be concerned about victimisation in the future because they have raised a complaint.	The PIDA protects workers who blow the whistle from victimisation (when linked to having blown the whistle).  We have included contact details of advice services in annex 1 to provide support and guidance to individuals.  We will include the Samaritan's contact details within the annex. <b>Complete.</b>

Topic - <i>Strand</i>	Potential/Actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
<b>Training</b> - <i>All</i>	Poor understanding of the implications of this policy could result in its inadequate implementation.	Undertake a briefing with all GOC employees. <b>After consultation.</b> Introduce a point of contact for support when dealing with whistleblowing complaints. <b>Completed – in place in FTP case workers.</b> Ensure everyone knows where the policy is kept. <b>December 2015.</b>
<b>Stress and Wellbeing</b> - <i>Disability</i>	Individuals with mental health impairments could be adversely impacted by the stress associated with dealing with a whistleblowing procedure.	<ol style="list-style-type: none"> <li>1. The registrant under investigation will be supported in the normal way, and provided a single point of contact to discuss concerns. <b>In place.</b></li> <li>2. The team are trained to work with people in distress and mental health awareness. <b>Tbc</b></li> <li>3. The process will be reviewed for timeliness and effectiveness. <b>12 months from sign-off.</b></li> <li>4. The individual will be signposted to organisations who can provide support whilst we are processing the concern, if required. <b>Completed.</b></li> <li>5. The team will always remind the individual that if they experience any discrimination, it is against PIDA (if applicable). <b>After training.</b></li> <li>6. FTP to consider offering a location to those undergoing Performance assessment. <b>To be discussed.</b></li> </ol>
<b>Accessibility to the policies procedures</b> - <i>All</i>	<p>Risk that individuals will not know about the policy.</p> <p>Risk that the policy or its language is too complex to understand.</p> <p>Risk that individuals do not report.</p>	<ol style="list-style-type: none"> <li>1. Include a glossary to clarify the meaning of terms used within policy documents. <b>Completed</b></li> <li>2. The policy will be available on the GOC website, and the intranet. This will be clearly marked on the front welcome page. <b>After consultation.</b></li> <li>3. Appropriate font size and accessible documents will be used to ensure no one is excluded during communication of this policy. <b>On-going action, in place.</b></li> <li>4. Registrants will be sent the policy by email. <b>After consultation.</b></li> <li>5. Whistleblowing is included within the new Standards – which they will all access, and have a duty to report wrongdoing. <b>Completed.</b></li> </ol>

Topic - Strand	Potential/Actual Impact	Strengthening actions to remove or reduce impact. For actions, include timeframes.
		6. Consultation will provide feedback from potential service users. <b>January 2016.</b> 7. Comparison with other regulators' policies has been <b>completed.</b> 8. Flowchart to be created for an individual to consider the process before raising a complaint. <b>November 2015.</b> 9. Review of the website, to improve how easy the document is to find. <b>March 2016.</b> 10. Review of phone welcome message, to make raising a concern clearer. <b>Completed.</b>

Step 4: Monitoring and review

**Q10. What monitoring mechanisms do you have in place to assess the actual impact of your policy?**

Regularly monitor both the implementation and outcomes of the Whistleblowing policy. This analysis will be reported to the Senior Management Team. This EIA will be reviewed in twelve months' time when it will be clearer what the actual impact of this policy has been and how actions implemented as a result of this assessment have supported the successful implementation of this policy. We will use the review to assess any further risks or actions required.

Please provide a review date to complete an update on this assessment.

**Date:** December 2016.

# **Consultation: Raising Concerns with the GOC (Whistleblowing)**

**November 2015**

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Annex 1: Raising Concerns with the GOC policy to be included



## Executive summary

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1. This consultation document seeks the views of stakeholders on our policy for Raising Concerns with the GOC (Whistleblowing) which is part of our work to support whistleblowers.
2. In November 2015, we finalised our draft policy on ‘Raising Concerns with the GOC (Whistleblowing)’ (**annex 1**). This outlines the process with which ‘workers’<sup>25</sup> can make a protected disclosure to us about wrongdoing in their place of work or study.
3. The consultation will run from **12 November 2015** to **21 January 2016** and applies to the whole of the UK. We will analyse the responses and take the feedback to our Council meeting in **February 2016**, together with a revised version of the policy ready for approval and implementation.
4. We aim to implement the final version of the policy in spring 2016. Until then, we will be using this policy in draft.
5. The key aim of the policy is to provide a trusted avenue for workers to raise concerns in the public interest. It is necessary for us to have this policy to comply with relevant legislation, including the Protected Interest Disclosure Act, in our remit as a prescribed person.
6. We consider the benefits of the ‘Raising Concerns with the GOC (Whistleblowing)’ policy to be protecting the public by:
  - 6.1 promoting reporting of wrongdoing in the public interest;
  - 6.2 improving transparency of wrongdoing in the sector; and
  - 6.3 emphasising the registrant’s duty to report concerns where they may be a risk of harm or in the public interest.
7. The policy will be managed by the GOC and will be publicised within the sector. The duty to raise concerns is included within our Standards.
8. During the consultation period we intend to complete a desk review of previous concerns raised with the GOC, in order to ensure we are correctly identifying all protected disclosures and assess whether the policy is appropriate and our investigation processes cover all categories of disclosures we are likely to receive. This review will include gathering feedback from the individuals involved, development of example case studies to accompany the policy and timescales for investigation. The results of the research will be communicated to Council with the consultation responses. This will help us to develop relevant messages to stakeholders and consider appropriate communication methods.
9. We will also conduct research as part of the 2016 Registrants survey to raise awareness of the policy and evaluate its impact.

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<sup>25</sup> ‘Workers’ includes optical sector employees, registrants, students/trainees and agency workers.

## Introduction

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10. We have prepared this consultation with reference to the principles of good regulation<sup>26</sup>: proportionate, targeted, consistent, transparent, accountable and agile. We have interpreted these as follows:
- 10.1 **Proportionate** – we will identify and target the issues of greatest risk to public safety. We will seek to remove unnecessary bureaucracy.
  - 10.2 **Targeted** – we will ensure that our activity is focused on the areas of greatest risk, or where there is most benefit to public safety.
  - 10.3 **Consistent** – we will work in collaboration with UK health regulatory bodies and other partners to develop consistent and complementary policies and procedures.
  - 10.4 **Transparent** – we will explain and publicise decisions, and make public, wherever possible, Council information, activities and proceedings. We will make roles and responsibilities clear.
  - 10.5 **Accountable** – we will seek, and respond to, the views of stakeholders and partners. We will consider and review the consequences of our actions through evaluation.
  - 10.6 **Agile**<sup>27</sup> – we will anticipate change and take timely action. We will ensure that we can respond to changes in the optical sector and improvements in technology.

## About us

11. We are the regulator for the optical professions in the UK. We currently register around 28,000 optometrists, dispensing opticians, student opticians and optical businesses. Our primary legislation is the Opticians Act 1989 (as amended) ('the Act'), and we also have a series of related rules that describe how we carry out our statutory functions. Our legislation can be found on our website at [http://www.optical.org/en/about\\_us/legislation/index.cfm](http://www.optical.org/en/about_us/legislation/index.cfm)
12. The GOC has four main functions:
- 12.1 setting standards for optical education and training, performance and conduct;
  - 12.2 approving qualifications leading to registration;
  - 12.3 maintaining a register of those who are qualified and fit to practise, train or carry on business as optometrists and dispensing opticians; and
  - 12.4 investigating and acting where registrants' fitness to practise, train or carry on business is impaired.

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<sup>26</sup> Better Regulation Executive (2000), *Five principles of good regulation*.

<sup>27</sup> Added by the PSA (formerly CHRE) (2010), *Right-touch regulation*.

### How to respond

13. We welcome all responses to the consultation. We will consider our draft Raising Concerns with the GOC (whistleblowing) policy (**annex one**) in light of the responses we receive. You can respond by using the online response form on our website, which can be accessed through the following link: **LINK TO BE INSERTED**
14. You will have the option for your response to remain anonymous, by completing the appropriate section of the consultation response form. We would however encourage named responses where possible. We would particularly like to be able to identify responses from representative organisations so that we can reflect in our analysis that the response is on behalf of members/stakeholders rather than an individual response.
15. The data presented in our analysis will be summarised and supported by direct quotes from some of the responses received. These quotes will either be attributed to a named respondent or anonymised, depending on your preference as indicated in the consultation response form.
16. Alongside the analysis, we intend to publish the individual responses that we have received, unless you have indicated that your response is to remain private.
17. All data submitted will be stored securely and in accordance with data protection principles.
18. If you are unable to submit a response using our online response then further details of how to submit your written feedback are given in the response form attached to the end of this document.
19. We do not usually accept responses by telephone or in person. We normally ask that consultation responses are made in writing to ensure that we can accurately record what the respondent would like to say. However, if you are unable to provide your response in writing please contact us on 020 7307 8851 to discuss any reasonable adjustments that would help you to respond.

### Further information

20. 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.
21. If you have any queries about the consultation please contact Philippa Mann on [pmann@optical.org](mailto:pmann@optical.org) or 020 7307 8851.

**Our commitment to consultation**

22. 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 all the groups with an interest in the GOC: patients, the public, our registrants, optical organisations, healthcare organisations, employers, other regulators, employees and other stakeholders.
  
23. How we consult with our stakeholders is set out in our Consultation Framework, available in the consultation section of our website.

## Section 1 – Background

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### Whistleblowing

24. As of 1 October 2014, we are obliged as a prescribed person under Protected Interest Disclosure Act (PIDA 1998) to put in place a procedure in which workers in the optical sector may raise public interest (whistleblowing) concerns with us under whistleblowing protection and the PIDA, where they have been unable to raise or resolve those concerns with their employer.
25. PIDA enables workers to make protected disclosures to the GOC in relation to:
  - 25.1 the registration and fitness to practise of a member of a profession regulated by the Council; and
  - 25.2 any activities not covered above in relation to which the GOC has functions (for example: education and training, and illegal practice).
26. Workers who make a qualifying disclosure (one that fits specific criteria) are protected from suffering detriment, bullying or harassment from another employee or their employer.
27. This policy is to clarify our process and demonstrate our responsibilities as a prescribed person. We will continue to use our 'complaints about a registrant' process to investigate concerns, including those against educational providers.

### Impact assessment

28. We are in the process of carrying out an equality impact assessment in relation to implementing the policy and will consider all responses to this consultation when we are completing the equality impact assessment.
29. The policy will require us to monitor compliance, manage and investigate disclosures, publicise the policy and complete an annual report regarding disclosures.

## Section 2 – Action for implementing the Raising Concerns Policy

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30. After consultation, we will analyse responses and take the feedback to our Council meeting in February 2016, together with a revised version of the policy ready for sign off and implementation.

### Evaluating the policy

31. We intend to complete an annual review of the effectiveness of our policy, using information from our desk review of protected disclosure cases, feedback from whistleblowers and information gathered through our registrant survey.
32. We will complete a full review of the policy every three years, or sooner should there be a requirement to do so.

### Section 3 – Response form

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#### How to respond

The simplest way to provide a response is through our online consultation response form, which can be accessed here: [add link](#)

If you are unable to submit your feedback online, then please use the form below to submit your written feedback by 21 January 2016.

This form should be emailed or posted to:

Philippa Mann  
 General Optical Council  
 41 Harley Street  
 LONDON  
 W1G 8DJ  
 Email: [pmann@optical.org](mailto:pmann@optical.org)

If you are unable to provide your response in writing or you require the consultation form in a different format, please contact us on 020 7307 8851 to discuss reasonable adjustments that would help you to respond.

#### Publication of consultation responses:

Unless you state otherwise we will assume you are happy for us to publish your response, including your name, and to share it with other appropriate bodies and stakeholders. We would however encourage named responses where possible and particularly from representative organisations so that we can reflect that the response is on behalf of members / stakeholders rather than an individual response.

Please tick here if you are only happy for us to share your responses anonymously:

Your name or the name of your organisation: \_\_\_\_\_

Which category of respondent best describes you?

- Member of the public
- Optometrist
- Dispensing optician
- Student – optometry
- Student – dispensing
- Optical business
- Education or training provider
- Optical professional body
- Other optical employer

- Healthcare regulator
- Other (please specify below)

**Questions**

We have a number of structured questions below. You do not have to answer all of the questions when responding – please feel free to respond just to the questions you feel are relevant to you. There are opportunities within the document to provide your specific comments on both the framework for standards and the standards themselves.

**Section 1: Our Policy**

1. Is the ‘Raising Concerns to the GOC’ policy (annex one) clear and accessible?

- Yes       Yes, mostly       No, only some parts       No, not at all

Please give your reasons below:

2. Is there anything missing, incorrect or unclear in the policy?

- Yes       No

If yes, please explain:

3. What barriers might prevent or deter you from raising your concerns to the GOC (as set out in section five of the policy)?

4. Does the policy make it clear how a worker should raise a concern (as set out in sections six and seven of the policy)?

- Yes       No

If no, please explain:

5. Is the flowchart (in annex two of the policy) which shows how workers can raise a concern clear and accessible?

- Yes       No

If no, please explain:

6. Does the policy make it clear how we will consider concerns raised with us (as set out in sections eight and nine, and in the flowchart in annex 3)?

- Yes       No

If no, please explain:

7. Do you have any comments on the approach to confidentiality and anonymity set out in section ten of the Policy?

8. Do you have any comments with regards to the elements we intend to report on (as set out in section 12)?

- Yes       No

If no, please explain:



**Section 2: Impact**

9. Overall, do you expect that the policy will be beneficial to, or have a positive impact on, the protection of the public?

- Yes                       No

Please give your reasons below:

10. Are there any aspects of the policy that could have an adverse or negative impact on certain groups of workers or businesses?

- Yes                       No

Please give your reasons below:

11. Are there any areas of the policy that could discriminate against people with specific characteristics, or be less accessible to people with specific characteristics?

Please consider sex, age, race, religion or belief, disability, sexual orientation, gender reassignment, pregnancy or maternity, caring responsibilities or any other characteristics.

- Yes                       No

Please give your reasons below:

**Section 3: Additional Comments**

12. Do you have any other comments that you wish to make on our policy on 'Raising Concerns'? Please specify below:

**Many thanks for answering our consultation.**

**More about you**

The GOC strives to be as diverse as the public it protects and welcomes consultation responses from everyone, regardless of age, disability, gender reassignment, race, religion or belief, ethnicity, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity. We monitor the diversity of all the individuals who respond to our consultations to ensure that we have heard from a diverse range of people and that we can identify where further engagement or consultation may be required. To help us to monitor this, please complete the following questions if you feel comfortable to do so. Providing this information is optional, but we would be grateful for your co-operation. Information provided will be treated in the strictest confidence under the Data Protection Act 1998 and will be only used for monitoring purposes.

**No information in this section will be published or used in any way which allows any individuals to be identified.**

**Age**

- 16-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65+
- Prefer not to say

**Disability**

Do you consider yourself disabled?

- Yes – please specify \_\_\_\_\_
- No
- Prefer not to say

[The Equality Act 2010 defines disability as a physical or mental impairment which has a substantial long-term effect on a person's ability to carry out normal day to day activities.]

**Gender**

- Female
- Male
- Prefer not to say

**Gender Identity**

My gender identity is **different** from the gender I was assigned at birth:

- Yes
- No

I describe my gender identity as \_\_\_\_\_

**Sexual orientation**

- Bisexual
- Heterosexual/Straight
- Gay/Lesbian/Homosexual
- Other
- Prefer not to say

**Marital status**

- Civil partnership
- Divorced/legally dissolved same-sex civil partnership
- Married
- Partner
- Separated
- Single
- Not stated
- Prefer not to say

**Maternity leave**

Are you pregnant, on maternity leave, or returning from maternity leave?

- Yes
- No
- Prefer not to say

**Ethnicity / Race**

**White**

- English / Welsh / Scottish / Northern Irish / British
- Irish
- Gypsy or Irish Traveller
- Any other white background – please specify \_\_\_\_\_

**Mixed / multiple ethnic groups**

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other mixed / multiple ethnic background – please specify \_\_\_\_\_

**Asian / Asian British**

- Indian
- Pakistani

- Bangladeshi
- Chinese
- Any other Asian background – please specify:  
\_\_\_\_\_

**Black / African / Caribbean / Black British**

- African
- Caribbean
- Any other Black / African / Caribbean background – please specify  
\_\_\_\_\_

**Other ethnic group**

- Arab
- Any other ethnic group – please specify \_\_\_\_\_
- Prefer not to say

**Religion/Belief**

- No religion
- Buddhist
- Christian
- Hindu
- Jewish
- Muslim
- Sikh
- Any other religion / faith – please specify \_\_\_\_\_
- Prefer not to say

**Many thanks for completing this confidential monitoring form.**

**[Annex 1 – ‘Raising Concerns with the GOC’ policy to be included here.]**