General Optical Council Fitness to Practise Annual Report 2012-13

Presented to Parliament Pursuant to Section 32A(2) of the Opticians Act 1989 as amended by Schedule 2 paragraph 3 of the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008
**Foreword**

This is our fourth annual fitness to practise report.

Our aim in producing this report is to share our statistics on fitness to practise openly with all our stakeholders. In this we include registrants, professional bodies, patient and public interest groups and the wider public we exist to protect.

Dealing with fitness to practise complaints is one of our core regulatory functions. It is essential to our public protection role.

Much of our emphasis this year has been on improving our handling of these cases. I am therefore delighted that the Professional Standards Authority (PSA)\(^1\) recognised our efforts and we met all their Standards of Good Regulation\(^2\) during this period.

This year we held more frequent hearings and the forthcoming implementation of our new Fitness to Practise Rules will help us to further improve efficiency of the process. For example, our new case examiners should allow us to make faster decisions on whether to refer allegations for a hearing and we will be able to fast-track complaints involving serious criminal convictions.

Some changes have already made a difference. For example, I am delighted to be able to report that we have cut the median time for an interim order decision, for the most serious allegations we receive, from 37.5 weeks to just 12. We must continue improving though to speed up the time taken for all types of hearing.

This year also saw the Francis Inquiry published, including a number of recommendations in relation to fitness to practise. Although our registrants were not implicated in the terrible events at Mid-Staffs, we know there are lessons for all healthcare regulators.

We will work closely with our fellow regulators and the PSA to heed the Inquiry’s lessons. We must all work closely together to spot trends, share information and support complainants and witnesses.

This report is a testimony to the hard work that so many of my colleagues have done over the last year. We never stand still though and are always determined to keep improving.

**Gareth Hadley, Chair**

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\(^1\) Formerly the Council for Healthcare Regulatory Excellence (CHRE)

\(^2\) The Performance Review Standards, Standards of Good Regulation, June 2010 (updated 2012), Section 5: Fitness to Practise
Introduction

The purpose of this report is to provide statistical information about the fitness to practise process and where possible provide analysis of trends. We hope that in future years the analysis will be more detailed as we will have more data available to us.

Our fitness to practise reform programme will conclude with the finalisation of revised Fitness to Practise Rules in 2014.

I hope that you find this report to be a useful explanation of our fitness to practise process. If you would like to contact the fitness to practise team please email us at ftp@optical.org

Fitness to practise – what does it mean?

Our statutory function is to protect, promote and maintain the health and safety of members of the public. The fitness to practise team’s role within this is to ‘investigate and act where a registrant’s fitness to practise, train or carry on business is impaired’.

We must maintain our independence during the course of our work as we are not a complaints resolution organisation and do not mediate between the registrant and the patient, although the majority of our investigations are triggered by complaints from members of the public. The fitness to practise team conducts a thorough and independent investigation into each complaint it receives to ensure that the decision-making committees are able to determine the appropriate action to take, whilst always having the GOC’s statutory function in mind.

The role of the Fitness to Practise Committee (FTPC) is to determine whether the past behaviour of the registrant means that their current fitness to practise is impaired. During the course of our investigation we look to a registrant’s past, current and future practice to assess what action, if any, we should take to protect the public.

All professionals will make mistakes during the course of their practice. At the decision making stages of the process the relevant committees assess whether that error, course of conduct or behaviour will reoccur or, indeed, whether that error was so serious that we ought to take action to restrict a registrant’s practice.

This year we received 171 complaints. We take a proactive approach to fitness to practise and, therefore, information received from a member of the public may trigger an investigation into others as well as the registrant who was the subject of the complaint.

Only 0.93 percent of those registered with us were subject to complaints about their fitness to practise during the period covered by this report and, of these, even fewer are referred for a formal hearing.

Mandie Lavin, Director of Regulation
About us

The GOC regulates optometrists, dispensing opticians, students training to be optometrists or dispensing opticians, and optical businesses in the UK. In the year 1 April 2012 - 31 March 2013, we had 26,616 registrants.

Individual optometrists and dispensing opticians must register with us before beginning to practise. Student optometrists and student dispensing opticians must register with us in order to undertake training.

We get our powers from an Act of Parliament called the Opticians Act 1989 (as amended) (the Act). The ways in which we use these powers are set out in statutory rules. The Opticians Act and related legislation, statutory rules and regulations can be found at http://www.optical.org/en/about_us/legislation/opticians_act.cfm

Our main functions

We are one of nine regulators of the healthcare professions. Regulators protect the public by restricting who can practise a profession. We are independent of the Government and our work is overseen by a separate organisation – the Professional Standards Authority (PSA).

We have 12 Council members: six are registrants and six are lay members (not optometrists or dispensing opticians). Council members oversee the work of the whole organisation and are responsible for making strategic decisions.

Staff based at our office in London put the strategic Council decisions into practice, assisted by several committees, including the two independent committees involved in the fitness to practise process – the Investigation Committee (IC) and the Fitness to Practise Committee (FTPC).

Our mission, vision and values

Our Mission

Our statutory function is ‘to protect, promote and maintain the health and safety’ of members of the public. We interpret this in our Mission as ‘Assuring the health and protection of those who use the services of optometrists and dispensing opticians’.

Our Vision

The GOC Vision is to be seen as leading the way in regulation. That is, to deliver our Mission in a manner that is innovative and exemplary.

We are determined to respond effectively to the considerable pressure for change in the way health professions are regulated. We do not plan to wait to be told how and what to change. Instead we want to get there first, building on good practice around us and taking the initiative where we can.
We are keen to ensure that our Vision is clearly understood, by all our stakeholders, as an aspiration to be an exemplar; in essence, to develop, adopt and share exemplary practice in public protection, working collaboratively with our stakeholders.

**Our Values**

We are responsible, forward thinking and principled

*Responsible*

We inspire confidence because:

- We make clear, well-reasoned, evidence based decisions
- We account for our actions and are open to scrutiny
- We apply our resources in a targeted and proportionate manner

*Forward thinking*

We make a difference because:

- We pursue defined goals and measure our results
- We are progressive, innovative and agile in our ways of working
- We achieve and deliver more by working collaboratively
- We are a learning organisation committed to continuous improvement

*Principled*

We build trust because:

- We gain respect through our credibility, integrity and high standards
- We listen openly, act responsively and communicate honestly
- We behave consistently and fairly to everyone
- We foster a positive and productive culture

**Strategic plan**

Our statutory function is 'to protect, promote and maintain the health and safety' of members of the public.

Over the three years 2011/12 - 2013/14 we are concentrating on four strategic priorities:

- excellent strategic capacity
- strong stakeholder relationships
- integrated and streamlined processes
- shared culture and identity
If you would like read our strategic plan, visit http://www.optical.org/goc/filemanager/root/site_assets/publications/strategic_documents/GOC11_Strategy_web2.pdf

How do we protect the public?

Setting standards for optical education, training, performance and behaviour

Optometrists and dispensing opticians who want to register with us must meet our standards of knowledge and skill, referred to as the standards of competence.

In addition, individuals who want to register with us must meet our standards of behaviour, which can be found in the Code of Conduct for Individual Registrants. Optical businesses who want to register with us must meet our standards of behaviour, which can be found in the Code of Conduct for Optical Businesses.


Student optometrists or student dispensing opticians must satisfy us that they are fit to undertake training and qualified registrants must satisfy us that they are fit to practise.

Approving the qualifications that lead to registration

Individuals need training to deliver good standards of eye care. We assess and approve the education of optometry and dispensing optics students who register with us and wish to practise in the UK. This ensures their training meets our standards.

We decide on the content of all courses and qualifications that lead to full registration with us. We carry out quality assurance visits to check that education and examination bodies are keeping to our standards.

Publishing registers of optometrists, dispensing opticians, students and optical businesses in the UK

Optometrists and dispensing opticians must be registered with us to practise in the UK. We keep registers of all optometrists, dispensing opticians, student opticians and optical businesses that are qualified and fit to practise, train or carry on business.

We can investigate and take action if someone tries to practise, train or carry on business without being registered with us.

Investigating and acting on concerns about our registrants

We can take action if we have reason to believe that a registrant’s fitness to practise, fitness to undertake training, or fitness to run a business as an optometrist or dispensing optician may be impaired (i.e. if it is negatively affected).
If an optician is described as ‘fit to practise’ it means that they meet the standards of health, character, knowledge, skill and behaviour that are necessary for them to do their job safely and effectively.

If a registrant is not fit to practise, fit to undertake training, or fit to run a GOC-registered business, we can stop them from working in the UK, we can restrict the work they are allowed to do or make their practice conditional.

These powers are all set out in the Opticians Act.

**Complaints about a registrant’s fitness to practise**

**Who can complain?**

Anyone can complain to us if they have a concern about one of our registrants. When we receive complaints it is our job to determine whether the complaint relates to fitness to practise issues or whether the concern is a contractual or consumer issue. A complaint that a GOC registrant may not be fit to practise can be as a result of one or more 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
- fraud or dishonesty
- a criminal conviction or caution
- a finding by another regulatory body

**How can complaints be made?**

We ask anyone who wants to make a complaint about one of our registrants to complete an investigation form. The investigation form can be downloaded from our website [http://www.optical.org/en/Investigating_complaints/How_to_make_a_complaint/index.cfm](http://www.optical.org/en/Investigating_complaints/How_to_make_a_complaint/index.cfm) or obtained from our ‘How to complain about an optician’ booklet or sent to a potential complainant by post on request.

**What happens when a complaint is received?**

If the complaint raises a question about a registrant’s fitness to practise it will be considered by our Investigation Committee (IC). The fitness to practise team will gather the information the IC needs before it can consider the case, for example, optical records, witness statements or information from the police or NHS primary care trusts.³

³ Primary Care Trusts were abolished on 31 March 2013
This process can take between three and nine months depending on the complexity of the case and the ease of obtaining the documentary evidence we request from third parties.

Details of the process are set out in the FTP Rules 2005 and can be viewed at: http://www.optical.org/en/about_us/legislation/rules_and_regulations.cfm

The registrant subject to the complaint is provided with an opportunity to respond to the case against him/her before the case is considered by the IC. Any response received from the registrant is shared with the complainant.

If we receive a complaint against someone who is not registered with us, our Legal Compliance team will consider whether there may have been a criminal offence. If so, we can investigate and take action ourselves, or we can report the matter to the police. We have a Protocol for such complaints, which can be downloaded from our website http://www.optical.org/policies_procedures_and_protocols/new_protocol.pdf or sent by post on request.4

**Complaints received in 2012-13**

Between 1 April 2012 and 31 March 2013, we processed 171 complaints about the fitness to practise of GOC registrants.

In this section there is information about:

- the number of complaints received
- the category of registrants subject to the complaints
- the source of the complaint
- the type of complaints received

During the course of the year we receive a number of enquiries that we do not consider to be fitness to practise complaints. These may be complaints about the price of spectacles or enquiries about NHS vouchers. We will direct the individual to an appropriate alternative organisation if we cannot assist. These types of queries do not form part of the statistics included in this report.

**Table 1 – number of complaints in the period 1 April 2012 - 31 March 2013 and the number of GOC registrants**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of complaints</th>
<th>Total number of registrants</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>148</td>
<td>24,656</td>
</tr>
<tr>
<td>2011-12</td>
<td>149</td>
<td>25,461</td>
</tr>
<tr>
<td>2012-13</td>
<td>171</td>
<td>26,616</td>
</tr>
</tbody>
</table>

Registration figures are correct as of 1 March of each year.

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4 Between 1 April 2012 and 31 March 2013, the GOC processed 93 complaints about non-registrants. This is significantly less than the 195 complaints received and logged last year (between 1 April 2011 and 31 March 2012), and the difference can be explained by the reduction in Zero Powered Lenses cases from 147 to 49.
The number of complaints processed has increased by some 15 percent in comparison to 2011-12.

Table 2(a) – number of registrants who were the subject of complaints in the period 1 April 2012 - 31 March 2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of registrants</th>
<th>Total number of registrants</th>
<th>% of registrants subject to complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>184</td>
<td>24,656</td>
<td>0.78</td>
</tr>
<tr>
<td>2011-12</td>
<td>213</td>
<td>25,461</td>
<td>0.84</td>
</tr>
<tr>
<td>2012-13</td>
<td>239</td>
<td>26,616</td>
<td>0.93</td>
</tr>
</tbody>
</table>

The number of registrants subject to a complaint has shown slight growth over the last two years, however, this still represents less than one percent of registrants.

Table 2(b) – FTP complaints made against each GOC registrant category

<table>
<thead>
<tr>
<th>Category</th>
<th>2010-11</th>
<th>%</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optometrist</td>
<td>122</td>
<td>66.3</td>
<td>138</td>
<td>64.8</td>
<td>160</td>
<td>66.9</td>
</tr>
<tr>
<td>Business registrant</td>
<td>16</td>
<td>8.7</td>
<td>21</td>
<td>9.9</td>
<td>33</td>
<td>13.8</td>
</tr>
<tr>
<td>Dispensing optician</td>
<td>30</td>
<td>16.3</td>
<td>32</td>
<td>15.0</td>
<td>28</td>
<td>11.7</td>
</tr>
<tr>
<td>Student optometrist</td>
<td>12</td>
<td>6.5</td>
<td>12</td>
<td>5.6</td>
<td>12</td>
<td>5.0</td>
</tr>
<tr>
<td>Student dispensing optician</td>
<td>4</td>
<td>2.2</td>
<td>10</td>
<td>4.7</td>
<td>6</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>184</td>
<td></td>
<td>213</td>
<td></td>
<td>239</td>
<td></td>
</tr>
</tbody>
</table>

The figures show that complaints against registered businesses have grown markedly compared to last year, although the highest growth (in absolute numbers) was for complaints against optometrists. Overall numbers of complaints against students and dispensing opticians have declined slightly.

Table 2 (c) – number of registrants in each GOC category and percentage of registrants who have been subject to a GOC investigation

<table>
<thead>
<tr>
<th>Category</th>
<th>2010-11</th>
<th>%</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optometrist</td>
<td>12,841</td>
<td>1.0</td>
<td>13,202</td>
<td>1.0</td>
<td>13,682</td>
<td>1.1</td>
</tr>
<tr>
<td>Dispensing optician</td>
<td>5,849</td>
<td>0.5</td>
<td>6,018</td>
<td>0.5</td>
<td>6,243</td>
<td>0.4</td>
</tr>
<tr>
<td>Student optometrist</td>
<td>2,808</td>
<td>0.4</td>
<td>2,939</td>
<td>0.4</td>
<td>2,960</td>
<td>0.4</td>
</tr>
<tr>
<td>Student dispensing optician</td>
<td>1,640</td>
<td>0.2</td>
<td>1,754</td>
<td>0.6</td>
<td>1,576</td>
<td>0.4</td>
</tr>
<tr>
<td>Business registrant</td>
<td>1,518</td>
<td>1.0</td>
<td>1,548</td>
<td>1.3</td>
<td>2,155</td>
<td>1.5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>24,656</td>
<td>1.0</td>
<td>25,461</td>
<td>1.3</td>
<td>26,616</td>
<td>1.5</td>
</tr>
</tbody>
</table>

There has been a 39 percent rise in business registrant numbers in 2012-13 and a slightly higher proportion of complaints against this category.
Equality and diversity monitoring results – fitness to practise investigations

The GOC received a total of 202 complaints regarding individual registrants in the 2012/13 financial year. Of these, 189 complaints were in relation to full registrants and 13 were in relation to student registrants (there were also 32 complaints relating to bodies corporate).

Gender results – full registrants subject to a fitness to practise complaint in 2012/13

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>All full registrants</td>
<td>110</td>
<td>79</td>
<td>189</td>
</tr>
<tr>
<td>Optometrists</td>
<td>94</td>
<td>66</td>
<td>160</td>
</tr>
<tr>
<td>Dispensing opticians</td>
<td>16</td>
<td>13</td>
<td>29</td>
</tr>
</tbody>
</table>

Age results – full registrants subject to a fitness to practise complaint in 2012/13

<table>
<thead>
<tr>
<th></th>
<th>18-24</th>
<th>25-34</th>
<th>35-44</th>
<th>45-54</th>
<th>55-64</th>
<th>65+</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>All full registrants</td>
<td>7</td>
<td>76</td>
<td>33</td>
<td>42</td>
<td>22</td>
<td>9</td>
<td>189</td>
</tr>
<tr>
<td>Optometrists</td>
<td>6</td>
<td>69</td>
<td>26</td>
<td>34</td>
<td>16</td>
<td>9</td>
<td>160</td>
</tr>
<tr>
<td>Dispensing opticians</td>
<td>1</td>
<td>7</td>
<td>7</td>
<td>8</td>
<td>6</td>
<td>0</td>
<td>29</td>
</tr>
</tbody>
</table>

Table 3 – source of complaints made to the GOC

<table>
<thead>
<tr>
<th>Type of complainant</th>
<th>2010-11</th>
<th>%</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>88</td>
<td>59.4</td>
<td>96</td>
<td>64.4</td>
<td>112</td>
<td>65.5</td>
</tr>
<tr>
<td>Self-declaration</td>
<td>28</td>
<td>18.9</td>
<td>12</td>
<td>8.0</td>
<td>17</td>
<td>9.9</td>
</tr>
<tr>
<td>GOC</td>
<td>-</td>
<td>-</td>
<td>7</td>
<td>4.7</td>
<td>15</td>
<td>8.8</td>
</tr>
<tr>
<td>Primary care organisation</td>
<td>10</td>
<td>6.7</td>
<td>5</td>
<td>3.3</td>
<td>15</td>
<td>8.8</td>
</tr>
<tr>
<td>Employer</td>
<td>3</td>
<td>2.0</td>
<td>10</td>
<td>6.7</td>
<td>8</td>
<td>4.7</td>
</tr>
<tr>
<td>Police</td>
<td>8</td>
<td>5.4</td>
<td>3</td>
<td>2.0</td>
<td>10</td>
<td>5.9</td>
</tr>
<tr>
<td>Professional/educational body</td>
<td>1</td>
<td>0.7</td>
<td>7</td>
<td>4.7</td>
<td>3</td>
<td>1.8</td>
</tr>
<tr>
<td>Advertising Standards Authority</td>
<td>1</td>
<td>0.7</td>
<td>3</td>
<td>2.0</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Counter fraud</td>
<td>0</td>
<td>0.0</td>
<td>1</td>
<td>0.7</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td>Other</td>
<td>9</td>
<td>6.1</td>
<td>5</td>
<td>3.3</td>
<td>0</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>148</td>
<td>6.1</td>
<td>149</td>
<td>5.3</td>
<td>171</td>
<td>-</td>
</tr>
</tbody>
</table>

- The figures show that less than 0.93 percent of our registrants have been subject to complaints. There will be a small number of instances where a registrant has been the subject of more than one complaint.
We have again seen an increase in the number of registrants subject to complaints to the fitness to practise team. There was an increase of 12 percent in the number of registrants investigated by the GOC over the year 2011-12.

There has been an increase in the number of complaints from individual members of the public and primary care trusts (PCTs) as well as cases we have opened under our statutory powers.

Self-declarations, which fell significantly last year, have risen slightly to form nearly 10 percent of cases from eight percent. This continues to be a consequence of the changes to the declaration process whereby information which would previously have been referred to the fitness to practise team is considered separately by the registrar when made during the retention period.

There has been an increase in complaints against optometrists and business registrants.

Table 4 – types of complaint received by the GOC

<table>
<thead>
<tr>
<th>Type of complaint</th>
<th>2010-11</th>
<th>%</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal conduct</td>
<td>8</td>
<td>4.3</td>
<td>25</td>
<td>11.6</td>
<td>21</td>
<td>8.8</td>
</tr>
<tr>
<td>Spectacle prescription</td>
<td>30</td>
<td>16.3</td>
<td>22</td>
<td>10.2</td>
<td>19</td>
<td>7.9</td>
</tr>
<tr>
<td>Complaint handling – business</td>
<td>6</td>
<td>3.3</td>
<td>8</td>
<td>3.7</td>
<td>16</td>
<td>6.7</td>
</tr>
<tr>
<td>Multiple (clinical)</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>16</td>
<td>6.7</td>
</tr>
<tr>
<td>Other clinical</td>
<td>13</td>
<td>7.1</td>
<td>30</td>
<td>14.0</td>
<td>16</td>
<td>6.7</td>
</tr>
<tr>
<td>Conviction/caution</td>
<td>18</td>
<td>9.7</td>
<td>10</td>
<td>4.7</td>
<td>15</td>
<td>6.3</td>
</tr>
<tr>
<td>Management of child patients</td>
<td>2</td>
<td>1.1</td>
<td>10</td>
<td>4.7</td>
<td>15</td>
<td>6.3</td>
</tr>
<tr>
<td>Multiple (clinical/conduct)</td>
<td>9</td>
<td>4.9</td>
<td>19</td>
<td>8.8</td>
<td>14</td>
<td>5.9</td>
</tr>
<tr>
<td>Contact lenses</td>
<td>3</td>
<td>1.6</td>
<td>6</td>
<td>2.8</td>
<td>13</td>
<td>5.4</td>
</tr>
<tr>
<td>Cataracts</td>
<td>12</td>
<td>6.5</td>
<td>11</td>
<td>5.1</td>
<td>11</td>
<td>4.6</td>
</tr>
<tr>
<td>Procedures - business</td>
<td>n/a</td>
<td>n/a</td>
<td>3</td>
<td>1.4</td>
<td>10</td>
<td>4.2</td>
</tr>
<tr>
<td>Related to laser eye surgery</td>
<td>n/a</td>
<td>n/a</td>
<td>4</td>
<td>1.9</td>
<td>10</td>
<td>4.2</td>
</tr>
<tr>
<td>Other miscellaneous</td>
<td>18</td>
<td>9.7</td>
<td>4</td>
<td>1.9</td>
<td>9</td>
<td>3.8</td>
</tr>
<tr>
<td>Supervision of student</td>
<td>n/a</td>
<td>n/a</td>
<td>4</td>
<td>1.9</td>
<td>7</td>
<td>2.9</td>
</tr>
<tr>
<td>Fitting/dispensing</td>
<td>7</td>
<td>3.8</td>
<td>7</td>
<td>3.3</td>
<td>6</td>
<td>2.5</td>
</tr>
<tr>
<td>Glaucoma</td>
<td>4</td>
<td>2.1</td>
<td>3</td>
<td>1.4</td>
<td>6</td>
<td>2.5</td>
</tr>
<tr>
<td>Breach of Opticians Act</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>5</td>
<td>2.1</td>
</tr>
<tr>
<td>Exam/qualification fraud</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>5</td>
<td>2.1</td>
</tr>
<tr>
<td>Fraud</td>
<td>5</td>
<td>2.7</td>
<td>14</td>
<td>6.5</td>
<td>4</td>
<td>1.7</td>
</tr>
<tr>
<td>Macular degeneration</td>
<td>4</td>
<td>2.1</td>
<td>4</td>
<td>1.9</td>
<td>4</td>
<td>1.7</td>
</tr>
<tr>
<td>Retinal tear/detachment</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>4</td>
<td>1.7</td>
</tr>
<tr>
<td>Theft</td>
<td>0</td>
<td>-</td>
<td>0</td>
<td>-</td>
<td>4</td>
<td>1.7</td>
</tr>
<tr>
<td>Ill health</td>
<td>4</td>
<td>2.1</td>
<td>0</td>
<td>-</td>
<td>3</td>
<td>1.3</td>
</tr>
<tr>
<td>Non declaration to PCT</td>
<td>3</td>
<td>1.6</td>
<td>1</td>
<td>0.5</td>
<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>Retinal detachment</td>
<td>9</td>
<td>4.9</td>
<td>12</td>
<td>5.6</td>
<td>2</td>
<td>0.8</td>
</tr>
<tr>
<td>Domiciliary</td>
<td>2</td>
<td>1.1</td>
<td>1</td>
<td>0.5</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>Restricted activities</td>
<td>n/a</td>
<td>n/a</td>
<td>6</td>
<td>2.8</td>
<td>1</td>
<td>0.4</td>
</tr>
<tr>
<td>Advertising Standards Authority</td>
<td>1</td>
<td>0.5</td>
<td>3</td>
<td>1.4</td>
<td>0</td>
<td>-</td>
</tr>
</tbody>
</table>
Non declaration of a criminal conviction to the GOC | 22 | 11.9 | 8 | 3.7 | 0 | - |
Testing unregistered | 4 | 2.1 | 0 | - | 0 | - |
Testing unsupervised | 0 | - | 0 | - | 0 | - |
TOTAL | 184 | 215 | 239 |

We have included a more detailed breakdown than last year so there will be some categories where we cannot make a direct comparison.

**Investigation Committee (IC)**

**Its role**

Our Investigation Committee (IC) considers all complaints (or allegations) that we open where a registrant's fitness to practise, train or run a GOC-registered business may be impaired.

The IC decides whether a complaint should be referred to the FTP Committee (FTPC) for a formal hearing. If the IC decides that a particular complaint ought not to be referred, it must then consider whether the registrant should be given a warning or whether another outcome is appropriate. Further information about potential outcomes is provided below.

The IC also has to decide whether an application should be made for an interim order suspending the registrant or placing conditions on their practice. Further information about the interim order process is provided below.

**The options**

The IC may decide that it needs further information before it can decide whether or not a particular complaint ought to be referred to the FTPC. The IC has legal powers to direct further investigation, including directing the registrant to undergo a health assessment or an assessment of their professional performance.

Further information about these processes is available in the IC’s guidance (and in our guidance about performance assessments) at http://www.optical.org/en/Investigating_complaints/fitness-to-practise-guidance/index.cfm

Once the IC has all the information it needs about a particular complaint it will decide on the appropriate outcome for that complaint.

Further information about each of these outcomes is available in the IC’s guidance (see box above). We have also published additional guidance about warnings, which is available from our website.

In the majority of cases the IC decides that there is no need for any further action to be taken, or that the complaint can be appropriately dealt with by giving the optician a
warning, by providing the optician with a letter of advice, or by asking them to attend a voluntary performance review.

In the period 1 April 2012 - 31 March 2013 the IC met ten times.

Table 5 – outcomes decided by the IC for the period 1 April 2012 - 31 March 2013 for all cases considered in this period (including those where cases were opened before 1 April 2012)

<table>
<thead>
<tr>
<th>Outcome</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No further action</td>
<td>91</td>
<td>33.7</td>
<td>122</td>
<td>39.7</td>
</tr>
<tr>
<td>Referral to FTPC</td>
<td>37</td>
<td>13.7</td>
<td>50</td>
<td>16.3</td>
</tr>
<tr>
<td>No further action with advice</td>
<td>36</td>
<td>13.3</td>
<td>31</td>
<td>10.1</td>
</tr>
<tr>
<td>Further investigation required</td>
<td>17</td>
<td>6.3</td>
<td>27</td>
<td>8.8</td>
</tr>
<tr>
<td>Minded to issue a warning</td>
<td>29</td>
<td>10.7</td>
<td>24</td>
<td>7.8</td>
</tr>
<tr>
<td>Warning</td>
<td>37</td>
<td>13.7</td>
<td>19</td>
<td>6.2</td>
</tr>
<tr>
<td>Direction for a performance assessment</td>
<td>6</td>
<td>2.2</td>
<td>9</td>
<td>2.9</td>
</tr>
<tr>
<td>Direction for a health assessment</td>
<td>3</td>
<td>1.1</td>
<td>7</td>
<td>2.3</td>
</tr>
<tr>
<td>Withdrawn by complainant</td>
<td>4</td>
<td>1.5</td>
<td>7</td>
<td>2.3</td>
</tr>
<tr>
<td>Termination of referral to FTPC</td>
<td>5</td>
<td>1.9</td>
<td>5</td>
<td>1.6</td>
</tr>
<tr>
<td>Review of decision not to refer to FTPC</td>
<td>0</td>
<td>-</td>
<td>4</td>
<td>1.3</td>
</tr>
<tr>
<td>Voluntary performance review</td>
<td>5</td>
<td>1.9</td>
<td>2</td>
<td>0.7</td>
</tr>
<tr>
<td>TOTAL</td>
<td>270</td>
<td></td>
<td>307</td>
<td></td>
</tr>
</tbody>
</table>

There are some instances where the IC will consider a case twice, for example, where an assessment is directed the Committee will first decide to direct that an assessment ought to take place and then consider the case again when the assessment reports are placed before it.

This also applies to cases where the IC is minded to issue a warning; the IC must first notify the registrant that it is minded to issue a warning and set out the terms of the draft warning. The registrant is then provided with time to respond before the IC makes its final decision about whether or not to issue the warning.

Of the 171 complaints received during the period covered by this report, 56 are still open (as of early June 2013). A total of 22 complaints are listed to be considered by the IC in July and August 2013 (correct as of preparing this report) and 20 complaints are still at the investigation stage. The remaining 14 include those cases where the IC will be asked whether it will issue a warning (see above) and to receive the further investigation it directed i.e. by way of additional documentation or reports into a registrant’s performance or health.

**Interim Orders**

The IC also has the ability to refer a registrant to the FTPC if it considers that the FTPC should impose an interim order on the registrant.
An interim order is an immediate order which is used where the FTPC is satisfied it is necessary:

- to restrict the registrant’s practice to protect the public
- otherwise in the public interest or
- in the interests of the registrant

In the period covered by this report, the Committee directed us to apply for an interim order in 13 cases. Nine of those applications were successful. This is a decrease of seven percent in the number of applications made in the previous year.

**Warnings issued by the Investigation Committee**

A formal warning will be considered when the IC feels that there are real concerns regarding a registrant’s conduct or performance, but those concerns fall short of requiring referral to the FTPC. The purpose of a warning is two-fold. First, it alerts the registrant to steps that he or she can appropriately take to reduce the risk of being the subject of a complaint or of fitness to practise action in the future, whether by improving their professional standards or avoiding certain behaviour. Secondly, it allows us to monitor any patterns of complaint that may emerge in respect of a registrant. We have a legal duty to protect the health and safety of the public and must be aware of patterns of behaviour that might put the public at risk, or undermine the reputation of the optical professions, especially when there may be lapses of time between incidents.

Examples of where the issuing of a formal warning may be considered appropriate include (this list is not exhaustive):

- where the matters complained of would, if proved, demonstrate a significant failure to meet the GOC core competencies, follow the GOC Codes of Conduct or follow the guidance published by the professional bodies, but where a restriction on the registrant’s registration would not be necessary
- where the matters complained of would not amount, if proved, to an impairment of fitness to practise but if repeated may do so
- where there is a significant cause for concern following a performance assessment, but a restriction on the registrant’s registration is not necessary
- where the registrant accepts that he/she has acted improperly but can demonstrate that this is unlikely to occur again
- where the registrant accepts that his or her standards have fallen below an acceptable level but can demonstrate that this is unlikely to happen again.

Whether to issue a warning is a decision that is taken on the merits of each individual case.
What happens if there is another complaint against the registrant?

Warnings will be in force for four years from the date that they are issued. Should the registrant be the subject of a further complaint of a similar nature within that period, the IC will take the original complaint into account in determining what action, if any, to take in respect of the new complaint. The registrant will be invited to provide representations on the relevance of the earlier warning in the context of the new complaint.

When considering a new allegation alongside the circumstances of an earlier warning, it is open to the IC to review the decision not to refer the earlier complaint to the FTPC.\(^5\) Again, this is a matter on which the registrant will be given the opportunity to make representations.

During the period covered by this report, the IC has issued warnings to 18 registrants. The types of conduct which have resulted in a warning being issued are varied. However certain themes in terms of patterns of behaviour have emerged:

- half of these warnings issued have been for conduct outside of a registrant’s professional practice.
- two registrants have been warned about failing to declare a criminal record in full when required to do so either to the GOC itself or to a PCT\(^6\). Such behaviour can be motivated by dishonesty or by failure to pay due care and attention to the questions being asked of a registrant.

Registrants hold a position of trust in society and are expected to uphold standards of good behaviour which will not affect the reputation of the profession. It should also be noted that a conviction(s) or caution(s) received before registration with the GOC is relevant to consideration of whether that person is fit to practise. We would expect all registrants to honestly declare any criminal matters on first registration with us and, once registered, let us know straight away if they have been convicted of a criminal offence, convicted of a criminal offence resulting in a conditional discharge and/or have accepted a police caution.

Fewer than 40 percent of warnings were issued in relation to matters which relate directly to a registrant’s professional practice (broadly described as in relation to their clinical practise or their registration status.) There was a more varied spread of warnings in relation to clinical practice and processes and it has not been possible to draw clear themes from the data collected this year.

**Fitness to Practise Committee (FTPC)**

In reaching a decision the FTPC considers not only whether it is necessary to take action to protect individual members of the public, but also whether it is necessary to

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\(^5\) In accordance with Rule 15 of the GOC Fitness to Practise Rules 2005

\(^6\) Primary Care Trust: Local NHS bodies abolished on 31 March 2013
take action in the wider public interest, for example, to maintain public confidence in the professions or to declare and uphold proper standards of conduct and behaviour.

The FTPC’s procedure follows a four-stage process:

1. The Committee must decide whether the factual allegations set out in the notice of inquiry are proved by reference to the civil standard, i.e. proof of past facts that are more likely than not that they happened.

2. If the factual allegations are proven the Committee must decide, using their judgement, whether the facts amount to, on the grounds of impairment established by the Opticians Act 1989 (as amended):
   a. misconduct
   b. deficient professional performance
   c. conviction or caution
   d. adverse physical or mental health
   e. an adverse determination by another regulatory body

3. If the Committee finds one or more of the grounds of impairment is established then it must consider whether the registrant’s fitness to practise is currently impaired. Again this is a matter of judgement.

4. If the Committee finds that the registrant’s fitness to practise is currently impaired, one of the following sanctions is available to it:
   a. erasure
   b. suspension
   c. conditional registration
   d. payment of a financial penalty

**Removal of the registrant's name from our register**

This is sometimes referred to as ‘erasure’ or ‘striking off’. The registrant’s name is taken off the register, which means that they cannot work or train as an optometrist or dispensing optician or run a GOC-registered business in the UK. If they want their name to be put back on the register in future there is a separate process that they have to go through, which includes considering the reasons for their removal from the register.

**Suspension from our register**

The registrant's name is temporarily taken off the register and they cannot work, train or run a GOC-registered business in the UK for a fixed period of time.

If someone tries to work as an optometrist or dispensing optician after being suspended or erased from the register they are committing a criminal offence.
**Conditional registration**

The registrant can stay on the register provided they comply with certain conditions, such as doing extra training or being supervised while they work.

**Warning**

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

**Payment of a financial penalty**

The FTPC can impose a financial penalty in conjunction with any other directions which it has imposed. The fine can be up to a maximum of £50,000.

In the period covered by this report the Committee considered 25 cases involving 26 registrants and one business registrant.

**Table 6 – breakdown of registrants who appeared before the FTPC**

<table>
<thead>
<tr>
<th>Breakdown of registrants</th>
<th>Optometrists - 13</th>
<th>Dispensing optician - 8</th>
<th>Student optometrists - 1</th>
<th>Student dispensing optician - 4</th>
<th>Business registrant -1</th>
</tr>
</thead>
</table>

Three of these registrants were part of the same case and, of the total of 25 cases, all were concluded. When a case is concluded either the registrant has been erased, a suspension or conditional registration imposed, a warning has been issued or there has been no finding of impairment.

As stated previously, the FtP Committee hears the GOC’s application for an interim order. During this period the FtP Committee heard 12 new applications for an interim order to be imposed (nine orders were imposed), and reviewed 19 interim orders which were already in place.
During this period, the Registration Appeals Committee heard one application for restoration to the register which was unsuccessful. Six registration appeals against the Registrar’s decision not to allow registration were heard. Four appeals were successful, one appeal was overturned and one adjourned for further evidence.

Table 7 – outcomes decided by the FTPC

<table>
<thead>
<tr>
<th>Outcome</th>
<th>2010-11</th>
<th>%</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erasure</td>
<td>4</td>
<td>15.3</td>
<td>8</td>
<td>26.7</td>
<td>7</td>
<td>19.4</td>
</tr>
<tr>
<td>Suspension</td>
<td>2</td>
<td>7.7</td>
<td>5</td>
<td>16.7</td>
<td>5</td>
<td>13.9</td>
</tr>
<tr>
<td>Conditions</td>
<td>2</td>
<td>7.7</td>
<td>2</td>
<td>6.7</td>
<td>4</td>
<td>11.1</td>
</tr>
<tr>
<td>Financial penalty</td>
<td>1</td>
<td>3.8</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Warning</td>
<td>6</td>
<td>23</td>
<td>5</td>
<td>16.7</td>
<td>6</td>
<td>16.7</td>
</tr>
<tr>
<td>No further action</td>
<td>6</td>
<td>23</td>
<td>7</td>
<td>23.3</td>
<td>5</td>
<td>13.9</td>
</tr>
<tr>
<td>Suspension to continue following review hearing</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>3.3</td>
<td>1</td>
<td>2.8</td>
</tr>
<tr>
<td>Conditions to continue following review hearing</td>
<td>2</td>
<td>7.7</td>
<td>1</td>
<td>3.3</td>
<td>2</td>
<td>5.6</td>
</tr>
<tr>
<td>No impairment following review hearing</td>
<td>3</td>
<td>11.5</td>
<td>1</td>
<td>3.3</td>
<td>5</td>
<td>13.9</td>
</tr>
<tr>
<td>Erasure following review hearing</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>26</td>
<td></td>
<td>30</td>
<td></td>
<td>36</td>
<td></td>
</tr>
</tbody>
</table>
Registrations Appeal Committee

Where a registrant is erased from the register, any application for restoration is heard by the Registration Appeals Committee. This part of our work is handled by the fitness to practise team where the case is prepared and passed to the hearings team when it will be scheduled for hearing by the FTPC. The applicant cannot make an application until 22 months have passed since the order for erasure took effect and the restoration hearing cannot take place until 24 months have passed. Prior to making the application the applicant must have acquired the required number of Continuing Education and Training points (CET).

During this period, the Registration Appeals Committee heard one application for restoration to the register which was unsuccessful. Six registration appeals against the Registrar’s decision not to allow registration were heard. Four appeals were successful, one appeal was overturned and one adjourned for further evidence.

We publish all outcomes from hearings on our website www.optical.org for a period of 12 months. If you would like access to a transcript or decision which is not listed on the website, please contact the Hearings Manager, dhenley@optical.org.

Section 29 referrals

The Professional Standards Authority (PSA) has the power to refer a decision of the FTPC to the High Court where it considers that the decision of the Committee is unduly lenient as to findings in relation to fitness to practise or the penalty imposed. The PSA can also refer if a decision should not have been made and it would be desirable for the protection of members of the public for the PSA to take action. The PSA has not referred any of the decisions of the GOC’s FTPC under this process.

Key developments

Fitness to Practise Rules

The Council approved the draft new Fitness to Practise Rules at its September 2011 meeting but asked for an amendment to Rule 15; reviewing a decision by the Investigation Committee (IC) not to refer a case to the Fitness to Practise Committee (FTPC). A three-month consultation on a single question was conducted: “Do you agree with the provision for the case examiners, rather than the IC, to be able to review a decision not to refer?”

Following discussion, in October 2012 Council agreed:

1. Case examiners would be the decision maker in the Rule 15 review;
2. The decision of the two case examiners to review must be unanimous, failing which the original decision not to refer would stand;
3. It would be good practice (rather than mandatory) for the reviewing case examiners to be different from those who originally considered the case and that this would be made clear in their guidance, rather than the Rules; and
4. Guidance would be formulated to assist case examiners with this aspect of their work.
Rule 16

As part of our efforts to review and improve how we work on a rolling basis, we undertook an assessment of cases which had been subject to Rule 16 applications for the IC to review and possibly terminate an investigation. It was decided to draft some guidance for applicants and decision-makers in Rule 16 cases. Once drafted, the guidance will be submitted to Council with a view to undertaking a public consultation and then incorporation into the existing IC guidance document.

Audit

Each year, the GOC commissions an audit of the fitness to practise decision-making of the Investigation and Fitness to Practise Committees. This is in compliance with the eighth fitness to practise standard of the Professional Standards Authority:

“All fitness to practise decisions made at the initial and final stages of the process are well reasoned, consistent, protect the public and maintain confidence in the profession”

Each report contains a section on the auditor’s findings, compliance with previous recommendations and learning points from the current audit. Once the management response has been agreed the audit report is submitted to the Audit and Risk Committee for their scrutiny, before submission to the PSA.

The fitness to practise function will continue to be subject to this audit and others as agreed.

Feedback

The fitness to practise team also benefits from feedback, comments and questions sent from a variety of sources such as:

- Patients and registrants who have been involved in a fitness to practise case
- Fitness to practise decision-makers i.e. the Investigation and Fitness to Practise Committees
- Professional Standards Authority re FTPC determinations
- Regular and frequent meetings with its panel solicitors

It is intended to also plan how best to proactively seek comments from those involved in cases so as to capture learning points about customer service and case management.

Key Performance Indicators (KPIs)

7 The Performance Review Standards, Standards of Good Regulation, June 2010 (updated 2012), Section 5: Fitness to Practise.
One way by which the effectiveness of the fitness to practise function is measured is by a set of KPIs. Our KPIs are as follows:

- **Progressing 80% of cases to first consideration by the Investigation Committee within nine months of receipt of the investigation form**

During the period covered by this report we have achieved our target - 87% of cases achieved this KPI.

This achievement represents continuous improvement in the work of the investigation function. The target has been achieved because of the quality of the investigations conducted by our fitness to practise team and continued good case management.

- **Serving the Notice and other documents on the Hearings Manager in 80% of cases within seven months of the referral of the case by the Investigation Committee**

During this period 44 cases have been referred to the FTPC of which 31 cases were served on the Hearings Manager.

- 87% of cases have met the KPI.

- the median time between referral by the IC and service on the hearings manager is 28 weeks.

The PSA Performance Review this year noted that the GOC has met the sixth Standard of Good Regulation (Fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides), but commented that there were some weaknesses in performance which they would continue to monitor in the following year.

We are pleased that the PSA has found that our performance against this standard has been satisfactory overall, particularly in a year where we have experienced a significant rise in case load throughout the fitness to practise process and case complexity has increased to the extent that hearing lengths have doubled on average.

We are committed to continuous improvement and so have decided to take the following additional steps. First, we have decided to further increase the number of hearing days from 1 April 2013. We will increase hearing days each month from 10 to 15 (apart from in August when we will have 10 hearing days). This will mean a total of 175 hearing days. Secondly, we have introduced a more flexible approach to scheduling hearings to deal with peaks and troughs in the number of cases by holding hearings outside of the hearings calendar, when required. Thirdly, we have now recruited a full time assistant to work with the Hearings Manager to ensure that hearings are scheduled as efficiently as possible.

**PSA annual initial stages audit**
In this year’s PSA audit of cases closed by the IC, the report concluded that PSA had no concerns about any of the decisions made to close cases at the initial stages of the fitness to practise process.

The PSA found a number of examples of good practice: it noted that we continue to provide registrants and complainants with detailed and well-reasoned decision letters following consideration of their cases by the IC, and that we also send informative and explanatory letters to complainants. They further noted that the files audited contained sufficiently detailed records, including detailed notes of telephone calls.

The PSA also noted that we meet a number of the specific principles set out in the PSA casework framework. We welcome the statement that the GOC continues to demonstrate its focus on public protection in its decision-making at the initial stages of the fitness to practise process.

**PSA performance review**

The PSA’s annual review of our performance for 2012/13 was published on 28 June 2013 and is available at [www.professionalstandards.org.uk](http://www.professionalstandards.org.uk)

The PSA reported that we continue to perform as an effective regulator, meeting all of their 24 Standards of Good Regulation.

The PSA particularly highlighted our Continuing Education and Training (CET) scheme which enables registrants to keep their skills and knowledge up-to-date. They viewed the scheme as ‘proportionate’, picking out the new peer review element as ‘an example of good practice’ and ‘particularly useful in situations where registrants work alone or with a small number of colleagues’.

In the previous year’s (2011/12) performance review, the PSA found that the tenth Standard of Good Regulation for fitness to practise (information about fitness to practise cases is securely retained) was not met and inconsistent performance was demonstrated in relation to the sixth standard (fitness to practise cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides). In this year’s review, the PSA noted that both these standards had now been met.

With respect to the sixth Standard, the PSA noted the additional resources being put in to the hearings process and also commended on the fact that the median time taken from initial receipt of a complaint to IC decision had remained the same as in the previous year, despite a 20 percent increase in case volumes. The PSA further commended the significant decrease in the time taken from initial receipt of a complaint to an interim order decision (down to 12 weeks in 2012/13 from 37.5 weeks) as this improved the GOC’s ability to protect the public.

With respect to the tenth Standard, the PSA noted the extensive work we have done (which included the use of external experts) in developing policies relating to data protection, access to information and records management and retention. These are being underpinned by significant process changes in Information and Communications
Technology (ICT) and operational areas, by the identification of staff responsibilities, by improving the risk register, improving business continuity plans and training for all staff, Council members and panellists who handle data. The improvement project is also planned to deliver a framework to provide for the review and audit of the system.

The performance review process is an important part of the quality assurance of our regulatory work. The GOC is committed to continuous improvement and strives to deliver public protection in a timely and efficient way.

Feedback on the annual report would be welcome. If you have any comments then please contact Simon Grier, Communications Manager, on sgrier@optical.org