Summary and analysis of consultation responses

Introduction

1. We received 11 written responses to the consultation from a range of stakeholders including:
   a. ABDO
   b. AOP
   c. Blake Morgan LLP
   d. Investigating Committee
   e. Four registrants
   f. OCCS
   g. PSA
   h. BLM

Summary

2. Overall, the majority of the respondents were supportive of the principle of an acceptance criteria to filter initial complaints. While most respondents felt the acceptance criteria would assist the FTP process, there were comments in relation to how the criteria would work in practice.

3. There were concerns about how clear the acceptance criteria is and whether it needs clarifying further.

Analysis of each question

Do the acceptance criteria documents properly reflect the overarching objective of the GOC (s.1(2A)).

Responses

4. Most of the respondents felt the acceptance criteria documents properly reflected the overarching objective with the following comments reflecting this:

   “Public protection remains the heart of the decision making process. An approach focused on those cases where there is a realistic prospect of a finding of impairment being made is consistent with the overarching objective”

   “The proposals concerning Acceptance Criteria do place public protection at the forefront of decision making, and ultimately focus on enabling the GOC to provide effective regulation and protect the public”
5. There was concern from some respondents that the criteria would need further clarification about who the decision maker would be and the process for applying the criteria before they felt satisfied that the public protection element was satisfied.

**Actions**

6. The Acceptance Criteria document has been amended so that it now begins with a brief introduction about the GOC and ensures that the overarching objective is clearly stated and achieved throughout the document. The application of the overarching objective is considered in the introduction and within the paragraph ‘what is acceptance criteria.’

7. There is a clear process of how the criteria will be applied and this is set out clearly in section two of the Acceptance Criteria document.

**Will the acceptance criteria help to achieve consistency in the GOC’s decision making?**

**Responses**

8. A few respondents felt the decision making framework hasn’t been clearly set out in the acceptance criteria documents. It was felt that further clarification on this could help with consistency of decision making.

“The Acceptance Criteria is extremely wide ranging...”

“One would expect a published framework to promote consistent decision making although individual perceptions will always have the potential to lead to an element of inconsistency”

“... gives the decision making function to staff who already have experience of the GOC’s case examiner function”

“there is potential for the criteria to be applied in different ways by different caseworkers, leading to some cases being considered to be appropriate for investigation and others closed with no further action... we consider it important that those responsible for applying the criteria receive appropriate training and that there is oversight made to ensure that the criteria are being applied in a consistent manner.”

9. Others felt that criteria itself needed further clarification to ensure consistency and comments included:

“we suggest that ‘low level’ is defined to ensure consistency amongst those using the criteria.”

“we also suggest that using the terms ‘moderate’ or ‘severe’ harm without further definition could be too limiting and raises the threshold...”
10. Further comments included a suggestion to provide a clearer definition of ‘harm’ and ensure that the two documents were consistent in language and interpretation.

**Actions**

11. We have removed any ambiguous words from the document and ‘low level’ is no longer used to define a criminal offence that we will not investigate.

12. The use of ‘harm’ has also been removed and there is further reference to the Standards and statute to ensure consistent decision making.

13. The document is careful to use words from the legislation but is also reader friendly.

**Do the acceptance criteria ensure that FTP allegations will be accepted? How could this aspect be improved?**

**Responses**

14. It was helpfully suggested by some respondents that reference to the standards or conduct will assist with ensuring that FTP allegations will be accepted. Other respondents felt the experience of the staff would be a factor in whether the criteria does ensure FTP allegations are accepted.

15. There were helpful suggestions on how this aspect could be improved including:

   “You need to direct complainants whose complaint is rejected to an appropriate channel (OCCS) so they don’t feel abandoned. This will also mitigate risk of unnecessary appeals to FtP team”

   “The GOC must be mindful that a registrant be informed that no further action will be taken, it would be detrimental to the reputation of the regulator if the same concerns were allowed to re-enter at a later date.”

**Actions**

16. The paragraph headed ‘standards of practice for Optometrists and Dispensing Opticians’ provides a detailed explanation of how the GOC will consider a complaint against the Standards. The Acceptance Criteria then goes onto explain what complaints amount to an allegation of impaired FTP. This section hasn’t been greatly amended since the first draft of the Acceptance Criteria. We have taken comments on board surrounding the application of the Acceptance Criteria and ensured that the document provides for easy, consistent and accurate application.

**What impacts (positive and negative) could the Criteria have for: a. registrants b. the public**

**Responses**
17. The respondents were generally positive about the impacts the criteria would have on both registrants and the public with comments such as:

“acceptance criteria allow the GOC to focus on targeted and effective regulation.”

“Where the concerns does not meet the acceptance criteria, the member of the public is informed of this at the earliest possible stage. This manages their expectations.”

“This could also impact on the way in which registrant view the GOC, reducing fear of investigations and perception of over regulation.”

18. There were a few comments on further clarity to assist with ensuring the criteria has a positive impact for both registrants and the public. It was also conveyed that this would assist registrants with understanding the process.

“Publishing guidance on the acceptance criteria should lead to registrant and the public being clear as to the type of issues that will warrant investigation. This will assist with transparency and hopefully fairness to all.”

“In our view the impact of the acceptance criteria will depend on whether the GOC clarifies its guidance and uses appropriately experienced staff to apply the criteria.”

Do you have any further comments on our proposed acceptance criteria which are not captured in your responses to the questions above?

Actions

19. There were comments relating to specific paragraphs within the criteria that would benefit from amendments. These comments were helpful in that they were aimed at ensuring consistency and transparency.

“On review, we suggests that paragraphs 7.2 and 7.3 of the Staff Guidance should be under section 3 – personal and professional conduct, as it seems a little misplaced in section 7.”

20. Generally, the comments received were positive about an introduction of acceptance criteria. There were comments surrounding some concerns about inconsistencies and some respondents felt we should approach the acceptance criteria differently, widening the rules further.

“We are unsure as to whether or not application of the acceptance criteria is intended to include an assessment of the available evidence, as opposed to merely an assessment of the type of complaint... we are of the view that if the GOC wish to introduce a meaningful...
filtering process, there should be an assessment of the evidence at the point of deciding whether or not a case should proceed to the Case Examiner stage.”

**Actions**

21. We have removed any suggestion that we will consider ‘evidence.’ Any inconsistencies have also been addressed and having one document has assisted with this.

22. We have attempted to make the Acceptance Criteria guidance more user friendly and provide information about how the GOC will communicate its findings and the right of review after an assessment has been made. These paragraphs assist with ensuring all the parties are aware of how the GOC works and how we will communicate with them.

**Further comments**

All responses to the consultation were broadly in favour of the introduction of an Acceptance Criteria.

A detailed training plan will be introduced to ensure the staff using the Acceptance Criteria have the sufficient knowledge and skills to apply it.

**Changes to the Acceptance Criteria following the consultation response**

We have taken into consideration all comments made during the consultation process and concluded that the Acceptance Criteria should:

- Consist of one document
- make more reference to the Standards
- provide clear examples
- illustrate a clear process for applying the criteria