

## ACCEPTANCE CRITERIA

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### 1. Introduction

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#### **About us**

- 1.1 The General Optical Council “GOC” is the regulator for the optical professions in the UK. We currently register around 29,000 optometrists, dispensing opticians, student opticians and optical businesses.
- 1.2 We have four core functions:
  - 1.2.1 setting standards for optical education and training, performance and conduct;
  - 1.2.2 approving qualifications leading to registration;
  - 1.2.3 maintaining a register of individuals who are qualified and fit to practise, train or carry on business as optometrists and dispensing opticians; and
  - 1.2.4 investigating and acting where registrants’ fitness to practise, train or carry on business is impaired.
- 1.3 Our overarching objective is the protection of the public. We take action when it is necessary to in order to protect patients and/or maintain the public’s confidence in the optical professions.

#### **Purpose of this document**

- 1.4 The purpose of this document is to provide guidance to FTP staff members, registrants, complainants and members of the public. It has been designed to clarify those matters where we can open an investigation into whether a complaint in relation to a registrant amounts to an allegation of impaired fitness to practise.
- 1.5 In line with our overarching objective, the FTP procedures of the GOC are designed to protect the public. They are not intended to serve as a general complaints resolution process, nor are they designed to resolve civil disputes between registrants and patients.
- 1.6 There will be some complaints that are better dealt with by other bodies including consumer matters that are better dealt with by the Optical Consumer Complaints Service (OCCS)<sup>1</sup>. The OCCS have a wider range of resolution channels that may resolve certain complaints more appropriately. Equally, there may be matters referred to us from the OCCS which will then need to be assessed against these criteria.
- 1.7 A detailed explanation of our FTP procedures, including decision-making at the end of an investigation can be found on our website, [https://www.optical.org/en/Investigating\\_complaints/index.cfm](https://www.optical.org/en/Investigating_complaints/index.cfm)

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<sup>1</sup> <https://www.opticalcomplaints.co.uk>

## **Equality and diversity**

1.8 The GOC are committed to ensuring that in exercising all of our functions we operate in a fair and transparent manner and in a way that is free from discrimination, harassment or victimisation. We strive to promote equality, value, diversity and inclusion regardless of age, disability, race, religion or belief, gender, gender identity, sexual orientation, marriage and civil partnership, pregnancy and maternity.

## **What are Acceptance Criteria?**

1.9 These Acceptance Criteria are a case management tool used by us to decide whether to accept a complaint as an allegation of impaired FTP as defined by section 13D Opticians Act 1989. That section states that a registrant can be impaired by any or all of the following:

- a. misconduct;
- b. deficient professional performance;
- c. conviction or caution;
- d. acceptance of a conditional offer or agreement to pay a penalty;
- e. Scottish proceedings (where registrant is the subject of an order discharging him/her absolutely);
- f. adverse physical or mental health; and/or
- g. determination of another body.

1.10 If a complaint meets the Acceptance Criteria, we will open an investigation into whether the registrant's FTP is impaired. The Acceptance Criteria apply to registered optometrists, dispensing opticians, student optometrists and student dispensing opticians.

1.11 FTP means that a registrant shows they have the skills, knowledge, character and health to do their job safely and effectively and also maintain the reputation of the profession.

1.12 In performing this task, we are always mindful of:

- 1.12.1 Our overarching objective: the protection of the public;
- 1.12.2 Our Standards of Practice and Standards for Students; and
- 1.12.3 the public interest.

1.13 We will regularly review the criteria to take account of changes to legislation and case law, to make sure they are consistent with other associated guidance documents. We will make sure they are fit for purpose and accessible to all who use them.

## **Actions the GOC can take at the Acceptance Criteria stage**

1.14 When considering a new complaint, there are a number of different actions we can take:

- 1.14.1 open an investigation;
  - 1.14.2 open an investigation and refer to the Interim Orders Committee;
  - 1.14.3 close with no further action; and/or
  - 1.14.4 close and refer on to another body.
- 1.15 In some cases, it is clear from the outset that there is no need for us to investigate because the complaint is about matters that cannot raise an issue of impaired fitness to practise. We will normally close these cases without taking any further action.
- 1.16 Examples of the types of cases that will usually not be referred for investigation include:
- 1.16.1 minor motoring offences – that resulted in a fixed penalty notice being issued;
  - 1.16.2 minor clinical concerns – if a patient receives a prescription from Optometrist A and receives another prescription from Optometrist B within a short timeframe and they differ very slightly, we will usually consider that such a complaint, in relation to either optometrist, would not be accepted as an allegation of impaired fitness to practise; and
  - 1.16.3 minor non-clinical matter – such as one incident of poor complaint handling, if not deliberate or dishonest.
- 1.17 If the complaint is closed, it will remain on the registrant's internal file in line with the GOC's retention policy. The complaint may be reconsidered later on in light of any new/ further complaints being raised against the registrant.
- 1.18 If we are unable to make an assessment about whether or not to open a case on receipt of the initial information, we will ask for further information to assist with the assessment. The complaint may also be closed because we are unable to obtain information to substantiate an investigation.

## **2 What complaints will be accepted by the GOC**

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- 2.1 There are 19 standards that optometrists and dispensing opticians must have regard to (*Standards of Practice for Optometrists and Dispensing Opticians*) and 18 standards that Optical Students must have regard to (*Standards for Optical Students*).
- 2.2 An optometrist and dispensing optician will need to use their professional judgment in deciding how to meet the standards.
- 2.3 In respect of all complaints, we will first consider whether there may have been a breach of the relevant standards. If so, we will then go on to consider

whether the breach would amount to an allegation under s.13D Opticians Act 1989 (as set out in para 1.8 above).

- 2.4 We will also assess risk in respect of the complaint received to determine whether there are risks to the public, risks to maintaining public confidence in the profession and risks to declaring and upholding standards of conduct and behaviour should a matter not be opened.
  
- 2.5 In some cases, the complaint about a registrant presents a serious or immediate risk to public protection such that an interim order referral might be needed.

## Allegations under section 13D Opticians Act 1989

### Misconduct

2.6 An allegation of misconduct can be brought against a registrant. The following will be considered in turn to decide whether a complaint amounts to an allegation of misconduct:

2.6.1 is there a complaint about a registrant's conduct? If so,

2.6.2 the misconduct complained of must be serious, this could include:

i. conduct which would be regarded as reprehensible/ deplorable/ of sufficient concern by fellow practitioners.

ii. a course of conduct or a particularly grave one-off incident.

2.7 This will always be considered on a case by case basis and examples of misconduct may include:

2.7.1 amending records after receiving a complaint;

2.7.2 failing to declare a caution/conviction.

### Deficient Professional Performance

2.8 An allegation of deficient professional performance can be brought against a registrant (except in the case of a student registrant).

2.9 The following will be considered in turn to decide whether a complaint amounts to an allegation of deficient professional performance:

2.9.1 is there a complaint about the registrant's professional performance?

2.9.2 the performance is unacceptably low and has been demonstrated by reference to a fair sample of the practitioner's work.

2.10 This will be considered on a case by case basis and an example of deficient professional conduct may include:

2.10.1 multiple record keeping failures.

### A Conviction or Caution

2.11 An allegation can be brought against a registrant if they have accepted a caution and/or been convicted of an offence.

2.12 A certified copy of a conviction shall be 'conclusive evidence' of the offence.

2.13 There are categories of conviction/ caution that are unlikely to amount to fitness to practise being impaired and might therefore not be investigated further.

These will be considered carefully on a case by case basis having regard to all the circumstances, and could include:

- 2.13.1 penalty notices;
- 2.13.2 reprimands;
- 2.13.3 youth cautions;
- 2.13.4 conditional cautions;
- 2.13.5 warnings; and/or
- 2.13.6 community protection warnings.

#### Acceptance of a conditional offer or agreement to pay a penalty

2.14 An allegation can be brought against a registrant if: *'the registrant having accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution).'*

#### Scottish proceedings

2.15 An allegation can be brought against a registrant if: *'the registrant, in proceedings in Scotland for an offence, having been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him absolutely.'*

#### Adverse Physical or Mental Health

2.16 An allegation of adverse physical or mental health can also be brought against a registrant. The following will be considered in turn and on a case by case basis:

- 2.16.1 is the registrant alleged to be suffering from a physical or mental health complaint?
- 2.16.2 does the initial health complaint pose a risk to the safety of the public/ patients and /or the registrant?

2.17 Examples of situations when a case will be opened include:

- 2.17.1 there are serious performance and/or conduct concerns where health is likely to have been a contributory factor;
- 2.17.2 the registrant has been recently convicted, cautioned or was the subject of a determination for an offence where health may be a contributory factor (eg. Drugs, alcohol, violence);
- 2.17.3 the registrant lacks insight, has failed to seek appropriate treatment, or has ceased to engage with support.

#### Determination of another body

2.18 By virtue of s.13D(2)(g), an allegation can be brought against a registrant if: *'a determination by a body in the United Kingdom responsible under any enactment for the regulation of health or social care profession to the effect that*

*his fitness to practise as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.'*

### **3 Communication of GOC's findings**

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- 3.1 After an assessment is made the GOC will notify both the Complainant and Registrant in writing, where applicable.
- 3.2 We aim to make sure that we make appropriate and consistent assessments and these will be covered by our internal quality assurance processes.

### **4 Right of review after an assessment is made**

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- 4.1 Any person who is dissatisfied by the decision **not** to investigate their complaint further may request a review of the decision.
- 4.2 Any person who is dissatisfied by the decision **to** investigate a complaint may also request a review of the decision.
- 4.3 The review will be of the decision made and not the information received. Please be aware that any information provided in support of a request for a review of the decision will form part of the GOC's investigation (if an investigation is commenced) and could therefore be referred to Case Examiners.
- 4.4 We therefore urge registrants to seek advice if they wish to request a review of the decision to open an investigation.
- 4.5 Requests should be made, in writing with reasons, within 28 days of the date of the decision. The decision will be reviewed by the Director of Fitness to Practise and a formal review decision issued within 21 days of receipt of the request for a review.
- 4.6 If a complaint has been referred for investigation, the investigation will not pause during the review period and we will continue to conduct an investigation during that time.

Requests should be sent to:  
Head of Case Progression  
Fitness to Practise  
General Optical Council  
10 Old Bailey  
London EC4M 7NG

Or by email to [ftp@optical.org](mailto:ftp@optical.org)

## **Useful Links**

Optical Consumer Complaints Service

Web: <http://www.opticalcomplaints.co.uk/>

Email: [enquiries@opticalcomplaints.co.uk](mailto:enquiries@opticalcomplaints.co.uk)

Tel: 0344 800 5071

Citizens Advice Bureau –

Web: <https://www.citizensadvice.org.uk/>

Helpline: 03454 04 05 06