General Optical Council Fitness to Practise
Annual Report
1 April 2013 to 31 March 2014
General Optical Council Fitness to Practise
Annual Report
1 April 2013 to 31 March 2014

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

A fair, efficient and effective fitness to practise process is absolutely crucial to our role as a regulator. As such, much of our work during 2013/14 was in preparation for the introduction of our new General Optical Council (Fitness to Practise) Rules Order of Council 2013 (the Rules), which came into force on 1 April 2014.

The Rules will have a number of benefits for both patients and registrants, but the main benefit will be speeding up the whole complaints process.

Being able to take fast and effective action against practitioners who are not fit to practise is of course vital for patient safety and for upholding confidence in the professions. A lengthy and complicated fitness to practise process may deter patients from coming forward with complaints. An efficient process is also very much in the practitioner’s interests as well; we know how stressful it is to be the subject of a complaint and registrants will want to be able to clear their name as quickly as possible.

The biggest change is that case examiners will replace the Investigation Committee in deciding whether to refer a case for a fitness to practise hearing. One registrant and one lay case examiner will consider every case. They will be able to decide far more quickly whether to progress a case. We expect this change alone to cut around three months from the typical length of an FTP case.

Other changes include a greater ability for the regulator to fast-track cases by allowing the Registrar to refer the most serious cases directly for a fitness to practise hearing.

Some changes have already made a difference. For example, I am delighted to be able to report that we have maintained the time from the date we receive information that indicates the need to apply for an interim order, to the date of the interim order decision for the most serious allegations we receive. We must continue to speed up the time taken for these and all types of cases.

Even within our existing framework though, we have made significant progress over the last year in speeding up the process. In particular, we reduced the median ‘end-to-end’ time from receipt of initial complaint to final FTP determination from 99 weeks to 89 and a half weeks. We have largely achieved this by scheduling FTP hearings more frequently.

These improvements, along with those we hope to realise from our new FTP Rules, helped us to pass all of the Professional Standards Authority’s Standards of Good Regulation for the second year in a row. This result is a testimony to the hard work that so many of my colleagues have done over the last year. We never stand still and are always determined to keep improving.

I am grateful for the support of the Council, the Chief Executive and Registrar and our staff who are all committed to protection of the public and acting in the public interest.

Gareth Hadley, Chair
**Introduction**

The purpose of this report is to provide statistical information about our fitness to practise process and, where possible, provide analysis of trends.

Our fitness to practise reform programme has entered a new phase with the implementation of revised Fitness to Practise Rules on 1 April 2014.

We 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 (FTP) team please email 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 FTP 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. Consumer complaints are dealt with by the GOC-funded Optical Consumer Complaints Service now provided by Nockolds Solicitors LLP and their details can be found at [http://www.opticalcomplaints.co.uk](http://www.opticalcomplaints.co.uk)

The FTP team conducts a thorough and independent investigation into each complaint we receive to ensure that our decision-making mechanisms are able to determine the appropriate action to take, whilst always having our 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 conduct to assess what action, if any, we should take to protect the public.

All professionals may make mistakes during the course of their practice. The decision-making processes 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 registration.

This year we opened formal investigations into 189 registrants. 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 0.7 per cent 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 were referred for a formal hearing. In dealing with our fitness to practise cases it is important to remember that the vast majority of our registrants provide and excellent service to patients and will never be subject to any action on their registration.

**Mandie Lavin, Director of Regulation**
About us

We regulate optometrists, dispensing opticians, students training to be optometrists or dispensing opticians and optical businesses in the UK. As at 31 December 2013 there were 26,435 registrants on the register.

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

We get our statutory powers from the Opticians Act 1989 (as amended) (the Act). The ways in which we use these powers are set out in statutory rules. The 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 statutory 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 Council’s strategic 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). The role of the Investigation Committee was largely replaced by the introduction of case examiners under the General Optical Council (Fitness to Practise) Rules Order of Council 2013, which came into force on 1 April 2014.

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 ‘to protect and promote the health and safety of the public.’

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 to 2013/14 we concentrated on four strategic priorities:

• excellent strategic capacity;
• strong stakeholder relationships;
• integrated and streamlined processes; and
• shared culture and identity.

We now have a new strategic plan in place for the three years 2014/15 to 2016/17. You can read it online at [http://www.optical.org/en/about_us/strategic_plan/index.cfm](http://www.optical.org/en/about_us/strategic_plan/index.cfm)

*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 establish the competencies (knowledge and skills) that students must achieve upon graduation from an approved course. Our quality assurance checks enable us to satisfy ourselves that the courses are teaching and assessing against the GOC Core Competencies and to the required standard.

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, restrict the work they are allowed to do or make their practice conditional.

These powers are all set out in the Opticians Act and associated statutory rules.

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; or
- a finding by another regulatory body.

**How can complaints be made?**

We invite 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), 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 have been considered by our Investigation Committee (IC) (up until the end of March 2014 when the new Fitness to Practise Rules came into operation). The FTP team will have gathered the information needed by the IC to consider the case, for example, optical records, witness statements or information from the police or NHS organisations.

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 operating during the period of this report are set out in the General Optical Council (Fitness to Practise) Rules 2005 and can be viewed at [http://www.optical.org/en/about_us/legislation/rules_and_regulations.cfm](http://www.optical.org/en/about_us/legislation/rules_and_regulations.cfm)

The registrant subject to the complaint will have been provided with an opportunity to respond to the case against them before the case was considered by the IC. As a result of the new Rules, this is now considered by case examiners. We share any response received from the registrant 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 at [http://www.optical.org/policies_procedures_and_protocols/new_protocol.pdf](http://www.optical.org/policies_procedures_and_protocols/new_protocol.pdf) or sent by post on request.

**Complaints received in 2013-2014**

Between 1 April 2013 and 31 March 2014 we dealt with 189 complaints about the fitness to practise of GOC registrants.

In this section there is information about the:

- number of complaints received;
- category of registrants subject to the complaints;
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, such as the Optical Consumer Complaints Service, 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 2013 - 31 March 2014 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>
<tr>
<td>2013-14</td>
<td>189</td>
<td>26,435</td>
</tr>
</tbody>
</table>

*Registration figures are correct as of 31 December of each year.

The number of complaints processed appears to have increased 11 per cent in comparison to 2012/13, however, there has not actually been an increase. This is because we now consider a complaint involving, for example, four registrants as being four complaints. This is important for the accuracy and integrity of the data as often a case involving two or more registrants will result in different types of investigation and different outcomes.

Table 2(a) – Number of registrants who were the subject of complaints in the period 1 April 2013 - 31 March 2014

<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>0.7</td>
</tr>
<tr>
<td>2011-12</td>
<td>213</td>
<td>25,461</td>
<td>0.8</td>
</tr>
<tr>
<td>2012-13</td>
<td>239</td>
<td>26,616</td>
<td>0.9</td>
</tr>
<tr>
<td>2013-14</td>
<td>189</td>
<td>26,435</td>
<td>0.7</td>
</tr>
</tbody>
</table>

The number of registrants subject to a complaint has reduced over the last year. This represents less than one per cent of registrants. There will be a small number of instances where a registrar has been the subject of more than one complaint.
Table 2(b) – FTP complaints made against each GOC registrant category

<table>
<thead>
<tr>
<th>Registrant category</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optometrist</td>
<td>138</td>
<td>64.8</td>
<td>160</td>
<td>66.9</td>
<td>123</td>
<td>65.1</td>
</tr>
<tr>
<td>Business registrant</td>
<td>21</td>
<td>9.9</td>
<td>33</td>
<td>13.8</td>
<td>24</td>
<td>12.7</td>
</tr>
<tr>
<td>Dispensing optician</td>
<td>32</td>
<td>15.0</td>
<td>28</td>
<td>11.7</td>
<td>26</td>
<td>13.8</td>
</tr>
<tr>
<td>Student optometrist</td>
<td>12</td>
<td>5.6</td>
<td>12</td>
<td>5.0</td>
<td>10</td>
<td>5.3</td>
</tr>
<tr>
<td>Student dispensing optician</td>
<td>10</td>
<td>4.7</td>
<td>6</td>
<td>2.5</td>
<td>6</td>
<td>3.2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>213</td>
<td></td>
<td>239</td>
<td></td>
<td>189</td>
<td></td>
</tr>
</tbody>
</table>

We have seen a decrease in the number of registrants subject to complaints from 239 to 189.

Table 2(c) – Total number of registrants in each GOC category

<table>
<thead>
<tr>
<th>Registrant category</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optometrist</td>
<td>13,202</td>
<td>51.9</td>
<td>13,682</td>
<td>51.4</td>
<td>13,589</td>
<td>51.4</td>
</tr>
<tr>
<td>Dispensing optician</td>
<td>6,018</td>
<td>23.6</td>
<td>6,243</td>
<td>23.5</td>
<td>6,020</td>
<td>22.8</td>
</tr>
<tr>
<td>Student optometrist</td>
<td>2,939</td>
<td>11.5</td>
<td>2,960</td>
<td>11.1</td>
<td>3,058</td>
<td>11.6</td>
</tr>
<tr>
<td>Student dispensing optician</td>
<td>1,754</td>
<td>6.9</td>
<td>1,576</td>
<td>5.9</td>
<td>1,477</td>
<td>5.6</td>
</tr>
<tr>
<td>Business registrant</td>
<td>1,548</td>
<td>6.1</td>
<td>2,155</td>
<td>8.1</td>
<td>2,291</td>
<td>8.7</td>
</tr>
<tr>
<td>TOTAL</td>
<td>25,461</td>
<td></td>
<td>26,616</td>
<td></td>
<td>26,435</td>
<td></td>
</tr>
</tbody>
</table>

As can be seen from Tables 2 (b) and 2 (c) the overall picture has remained generally stable.

Equality and diversity monitoring results – fitness to practise investigations

We received a total of 165 complaints regarding individual registrants in the 2013/14 financial year. Of these, 149 complaints were in relation to full registrants and 16 were in relation to student registrants (there were also 24 complaints relating to bodies corporate).

Table 2(d) - Gender distribution of full registrants subject to a fitness to practise investigation in 2013-14

<table>
<thead>
<tr>
<th>Registrant category</th>
<th>Male</th>
<th>Male under investigation</th>
<th>%</th>
<th>Female</th>
<th>Female under investigation</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optometrist</td>
<td>6083</td>
<td>84</td>
<td>1.4</td>
<td>7810</td>
<td>39</td>
<td>0.5</td>
</tr>
<tr>
<td>Dispensing optician</td>
<td>2492</td>
<td>15</td>
<td>0.6</td>
<td>3761</td>
<td>11</td>
<td>0.3</td>
</tr>
<tr>
<td>Student optometrist</td>
<td>273</td>
<td>11</td>
<td>3.6</td>
<td>596</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Student dispensing optician</td>
<td>176</td>
<td>3</td>
<td>2.2</td>
<td>361</td>
<td>2</td>
<td>0.5</td>
</tr>
<tr>
<td>Total</td>
<td>9024</td>
<td>113</td>
<td>1.26</td>
<td>12528</td>
<td>52</td>
<td>0.4</td>
</tr>
</tbody>
</table>

Total of individual registrants – 165. There were also 24 business registrants.
Table 2(d) shows that for each registrant category, the percentage of complaints against men is at least twice as many as against women. This is consistent with the findings of other healthcare regulators who report on similar information.

Table 3 – Source of complaints made to the GOC

<table>
<thead>
<tr>
<th>Source of complaint</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>96</td>
<td>64.4</td>
<td>112</td>
<td>65.5</td>
<td>122</td>
<td>64.6</td>
</tr>
<tr>
<td>Self-declaration</td>
<td>12</td>
<td>8.1</td>
<td>17</td>
<td>9.9</td>
<td>21</td>
<td>11.1</td>
</tr>
<tr>
<td>GOC</td>
<td>7</td>
<td>4.7</td>
<td>15</td>
<td>8.8</td>
<td>11</td>
<td>5.8</td>
</tr>
<tr>
<td>Primary care organisation</td>
<td>5</td>
<td>3.4</td>
<td>11</td>
<td>6.4</td>
<td>11</td>
<td>5.8</td>
</tr>
<tr>
<td>Employer</td>
<td>10</td>
<td>6.7</td>
<td>8</td>
<td>4.7</td>
<td>12</td>
<td>6.3</td>
</tr>
<tr>
<td>Police</td>
<td>3</td>
<td>2.0</td>
<td>5</td>
<td>2.9</td>
<td>2</td>
<td>1.1</td>
</tr>
<tr>
<td>Professional/educational body</td>
<td>7</td>
<td>4.7</td>
<td>3</td>
<td>1.8</td>
<td>6</td>
<td>3.2</td>
</tr>
<tr>
<td>Advertising Standards Authority (ASA)</td>
<td>3</td>
<td>2.0</td>
<td>0</td>
<td>0.0</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Counter fraud services</td>
<td>1</td>
<td>0.7</td>
<td>0</td>
<td>0.0</td>
<td>2</td>
<td>1.1</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>3.4</td>
<td>0</td>
<td>0.0</td>
<td>2</td>
<td>1.1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>149</td>
<td>171</td>
<td>189</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

There has been a slight increase in the number of complaints from individual members of the public and from employers, as well as through self-declarations. Overall, the changes are not particularly significant.

Table 4 – Types of complaint received by the GOC

<table>
<thead>
<tr>
<th>Type of complaint</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal conduct</td>
<td>25</td>
<td>11.6</td>
<td>21</td>
<td>8.8</td>
<td>25</td>
<td>11.8</td>
</tr>
<tr>
<td>Spectacle prescription</td>
<td>22</td>
<td>10.2</td>
<td>19</td>
<td>7.9</td>
<td>25</td>
<td>11.8</td>
</tr>
<tr>
<td>Complaint handling – business</td>
<td>8</td>
<td>3.7</td>
<td>16</td>
<td>6.7</td>
<td>10</td>
<td>4.7</td>
</tr>
<tr>
<td>Multiple (clinical)</td>
<td>0</td>
<td>0</td>
<td>16</td>
<td>6.7</td>
<td>9</td>
<td>4.3</td>
</tr>
<tr>
<td>Other clinical</td>
<td>30</td>
<td>14.0</td>
<td>16</td>
<td>6.7</td>
<td>37</td>
<td>17.5</td>
</tr>
<tr>
<td>Conviction/caution</td>
<td>10</td>
<td>4.7</td>
<td>15</td>
<td>6.3</td>
<td>16</td>
<td>7.6</td>
</tr>
<tr>
<td>Management of child patients</td>
<td>10</td>
<td>4.7</td>
<td>15</td>
<td>6.3</td>
<td>16</td>
<td>7.6</td>
</tr>
<tr>
<td>Multiple (clinical/conduct)</td>
<td>19</td>
<td>8.8</td>
<td>14</td>
<td>5.9</td>
<td>15</td>
<td>7.1</td>
</tr>
<tr>
<td>Contact lenses</td>
<td>6</td>
<td>2.8</td>
<td>13</td>
<td>5.4</td>
<td>9</td>
<td>4.3</td>
</tr>
<tr>
<td>Cataracts</td>
<td>11</td>
<td>5.1</td>
<td>11</td>
<td>4.6</td>
<td>9</td>
<td>4.3</td>
</tr>
<tr>
<td>Procedures - business</td>
<td>3</td>
<td>1.4</td>
<td>10</td>
<td>4.2</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Related to laser eye surgery</td>
<td>4</td>
<td>1.9</td>
<td>10</td>
<td>4.2</td>
<td>2</td>
<td>0.95</td>
</tr>
<tr>
<td>Other miscellaneous</td>
<td>4</td>
<td>1.9</td>
<td>9</td>
<td>3.8</td>
<td>8</td>
<td>3.8</td>
</tr>
<tr>
<td>Supervision of student</td>
<td>4</td>
<td>1.9</td>
<td>7</td>
<td>2.9</td>
<td>2</td>
<td>0.95</td>
</tr>
<tr>
<td>Fitting/dispensing</td>
<td>7</td>
<td>3.3</td>
<td>6</td>
<td>2.5</td>
<td>5</td>
<td>2.4</td>
</tr>
<tr>
<td>Glaucoma</td>
<td>3</td>
<td>1.4</td>
<td>6</td>
<td>2.5</td>
<td>2</td>
<td>0.95</td>
</tr>
<tr>
<td>Breach of Opticians Act</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>2.1</td>
<td>2</td>
<td>0.95</td>
</tr>
<tr>
<td>Exam/qualification fraud</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>2.1</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Fraud</td>
<td>14</td>
<td>6.5</td>
<td>4</td>
<td>1.7</td>
<td>2</td>
<td>0.95</td>
</tr>
<tr>
<td>Macular degeneration</td>
<td>4</td>
<td>1.9</td>
<td>4</td>
<td>1.7</td>
<td>4</td>
<td>1.9</td>
</tr>
<tr>
<td>Retinal tear/detachment</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>1.7</td>
<td>1</td>
<td>0.5</td>
</tr>
<tr>
<td>Theft</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>1.7</td>
<td>9</td>
<td>4.3</td>
</tr>
<tr>
<td>Ill health</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>1.3</td>
<td>3</td>
<td>1.4</td>
</tr>
</tbody>
</table>
Some registrants have been subject to more than one complaint. These complaints categories are subject to review during 2014/2015.

**Investigation Committee (IC)**

**Its role**

Prior to the implementation of the new Rules on 1 April 2014, the role of our Investigation Committee (IC) was to consider all complaints (or allegations) that we opened where a registrant's fitness to practise, train or run a GOC-registered business may be impaired.

The IC’s role was to decide whether a complaint should be referred to the FTP Committee (FTPC) for a formal hearing. If the IC decided that a particular complaint ought not to be referred, consideration had to be given to whether the registrant should be given a warning or whether another outcome was appropriate. Further information about potential outcomes is provided below.

The IC has also had 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.

Although the IC retains some limited functions post April 2014, most of its decision-making powers have passed to case examiners.

**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 the 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](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 web link above). We have also published additional guidance about warnings, which is available from our website.

In the majority of cases the IC has decided that there is no need for any further action to be taken, or that the complaint can be appropriately dealt with by giving the registrant a warning or by providing the registrant with a letter of advice.

The IC met on eleven occasions in the period 1 April 2013 - 31 March 2014.

**Table 5 – Outcomes decided by the IC for the period 1 April 2013 - 31 March 2014 for all cases considered in this period (including those where cases were opened before 1 April 2013)**

<table>
<thead>
<tr>
<th>Outcome</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No further action</td>
<td>122</td>
<td>39.7</td>
<td>132</td>
<td>46.8</td>
</tr>
<tr>
<td>Referral to FTPC</td>
<td>50</td>
<td>16.3</td>
<td>49</td>
<td>17.4</td>
</tr>
<tr>
<td>No further action with advice</td>
<td>31</td>
<td>10.1</td>
<td>35</td>
<td>12.4</td>
</tr>
<tr>
<td>Further investigation required</td>
<td>27</td>
<td>8.8</td>
<td>9</td>
<td>3.2</td>
</tr>
<tr>
<td>Minded to issue a warning</td>
<td>24</td>
<td>7.8</td>
<td>14</td>
<td>5.0</td>
</tr>
<tr>
<td>Warning</td>
<td>19</td>
<td>6.2</td>
<td>10</td>
<td>3.5</td>
</tr>
<tr>
<td>Direction for a performance assessment</td>
<td>9</td>
<td>2.9</td>
<td>8</td>
<td>2.8</td>
</tr>
<tr>
<td>Direction for a health assessment</td>
<td>7</td>
<td>2.3</td>
<td>4</td>
<td>1.4</td>
</tr>
<tr>
<td>Withdrawn by complainant</td>
<td>7</td>
<td>2.3</td>
<td>5</td>
<td>1.8</td>
</tr>
<tr>
<td>Termination of referral to FTPC</td>
<td>5</td>
<td>1.6</td>
<td>9</td>
<td>3.2</td>
</tr>
<tr>
<td>Review of decision not to refer to FTPC</td>
<td>4</td>
<td>1.3</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Voluntary performance review</td>
<td>2</td>
<td>0.7</td>
<td>7</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>307</td>
<td></td>
<td>282</td>
<td></td>
</tr>
</tbody>
</table>

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

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.

As can be seen from table 5, more cases were considered by the IC than were actually received by the FTP department.

**Interim Orders**

The IC also has the ability to refer a registrant to the FTPC if it considers that the FTPC should consider the imposition of an interim order on the registrant’s practice.

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 14 cases; 11 of which were successful. This is one more than 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. Firstly, it alerts the registrant to steps that they 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, undertaking targeted Continuing Education and Training (CET) 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 issuing a formal warning may be considered appropriate include, but are not limited to, situations 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;
- the matters complained of would not amount, if proved, to an impairment of fitness to practise but if repeated may do so;
- there is a significant cause for concern following a performance assessment, but a restriction on the registrant’s registration is not necessary;
- the registrant accepts that they have acted improperly but can demonstrate that this is unlikely to occur again; or
- the registrant accepts that their 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 given by the IC 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\(^1\). 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 ten registrants. The types of conduct which have resulted in a warning being issued are varied. For example, two registrants self-referred when they were convicted of ‘drink driving’.

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 us is relevant to consideration of whether that person is fit to practise. We expect all registrants to honestly declare any criminal matters on first registration with us and, once registered, let us know immediately 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. During this period one registrant failed to declare a conviction for driving without insurance and was issued with a warning.

**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 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. proving that it is more likely than not that something has happened.

2. If the factual allegations are proven the Committee must decide, using their judgement, whether the facts amount to one of 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; or
   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 independent judgement.

4. If the Committee finds that the registrant’s fitness to practise is currently impaired, one of the following outcomes is available to it:
   a. erasure;
   b. suspension;
   c. conditional registration; or

---

\(^1\) In accordance with Rule 15 of the General Optical Council (Fitness to Practise) Rules 2005.
d. payment of a financial penalty.

**Erasure of the registrant’s name from our register**

This is sometimes referred to as ‘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, in the future, they want their name to be put back on the register there is a separate process that they have to go through which includes considering the reasons for their removal from the register and any remediation that may have taken place. A registrant can apply for their name to be put back on the register no earlier than 22 months following the date of erasure.

**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.

**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.

Where the FTPC deems that the registrant is fit to practise, they can still warn them about their future behaviour or performance by way of issuing a warning. A warning should be for varying periods of time.

In the period covered by this report, the Committee considered 41 cases involving the following registrant categories:
Table 6 – Breakdown of registrants who appeared before the FTPC

<table>
<thead>
<tr>
<th>Outcome</th>
<th>2011-12</th>
<th>%</th>
<th>2012-13</th>
<th>%</th>
<th>2013-14</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Erasure</td>
<td>8</td>
<td>26.7</td>
<td>7</td>
<td>19.4</td>
<td>9</td>
<td>22</td>
</tr>
<tr>
<td>Suspension</td>
<td>5</td>
<td>16.7</td>
<td>5</td>
<td>13.9</td>
<td>5</td>
<td>12.2</td>
</tr>
<tr>
<td>Conditions</td>
<td>2</td>
<td>6.7</td>
<td>4</td>
<td>11.1</td>
<td>1</td>
<td>2.4</td>
</tr>
<tr>
<td>Financial penalty</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>2.4</td>
</tr>
<tr>
<td>Warning</td>
<td>5</td>
<td>16.7</td>
<td>6</td>
<td>16.7</td>
<td>8</td>
<td>19.5</td>
</tr>
<tr>
<td>No further action / No case to answer</td>
<td>7</td>
<td>23.3</td>
<td>5</td>
<td>13.9</td>
<td>9</td>
<td>22.0</td>
</tr>
<tr>
<td>Suspension to continue following review hearing</td>
<td>1</td>
<td>3.3</td>
<td>1</td>
<td>2.8</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Conditions to continue following review hearing</td>
<td>1</td>
<td>3.3</td>
<td>2</td>
<td>5.6</td>
<td>1</td>
<td>2.4</td>
</tr>
<tr>
<td>No impairment following review hearing</td>
<td>1</td>
<td>3.3</td>
<td>5</td>
<td>13.9</td>
<td>6</td>
<td>16.6</td>
</tr>
<tr>
<td>Erasure following review hearing</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>2.8</td>
<td>1</td>
<td>2.4</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>30</td>
<td></td>
<td>36</td>
<td></td>
<td>41</td>
<td></td>
</tr>
</tbody>
</table>

Table 7 – Outcomes decided by the FTPC
Registration Appeal Committee

Where a registrant is erased from the register, any application for restoration is heard by the Registration Appeal Committee (RAC). This part of our work is handled by the FTP team where the case is prepared and then passed to the Hearings team where it will be scheduled for a hearing. 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 RAC heard two appeals against the Registrar’s decision not to allow initial registration, both of which were overturned. There were no applications for restoration during the period of this report.

We publish all outcomes from hearings on our website at http://www.optical.org/en/Investigating_complaints/Hearings/past_hearings/index.cfm 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 discretion under Section 29 (s29) of the National Health Service Reform and Health Care Professions Act 2002 (the PSA Act) to refer a decision of the FTPC to the High Court where it considers that the decision of the Committee is unduly lenient in relation to fitness to practise, or the penalty imposed does not reflect the seriousness of the misconduct found. The PSA can also refer the case 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 referred one of the decisions of the GOC’s FTPC
under this process. The matter was concluded by way of a consent order and a review hearing subsequently took place. The case was carefully scrutinised after this process was concluded. Learning points from all cases are integrated into training programmes.

**Key developments**

**General Optical Council (Fitness to Practise) Rules Order of Council 2013**

These came into force on 1 April 2014.

Between November 2013 and March 2014 the FTP team was engaged in a major project involving recruitment and training of case examiners, consultation on the guidance to accompany the new Rules, production of supplementary guidance for each aspect of the FTP procedures, as well as planning for the transition from the old Rules to the new. This work was completed successfully and, by 1 April 2014, 15 case examiners had undergone a rigorous training programme and were ready to consider their first cases.

**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 guidance for applicants and decision-makers in Rule 16 cases. The guidance was submitted to Council following a public consultation and then incorporated into existing IC guidance.

**Audit**

Each year, the GOC commissions an independent audit of the fitness to practise decision-making of the Investigation and Fitness to Practise Committees. This is in compliance with the PSA’s eighth fitness to practise Standard of Good Regulation\(^2\) which states:

“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 FTP team also benefits from feedback, comments and questions sent from a variety of sources such as:

---

\(^2\) The Performance Review Standards, Standards of Good Regulation, June 2010 (updated 2012), Section 5: Fitness to Practise.
• patients and registrants who have been involved in a fitness to practise case;
• fitness to practise decision-makers i.e. the IC and FTPC;
• the Professional Standards Authority (PSA) after considering FTPC determinations and providing feedback points;
• during regular and frequent meetings with its panel solicitors; and
• other stakeholders.

Work has also been undertaken on dealing with vulnerable witnesses; staff training has been completed and witness feedback forms have been updated during the year.

PSA annual initial stages audit

The PSA last conducted an audit in July 2012. They are due to complete their next one during 2015. All previous audit findings and recommendations have been actioned and completed.

PSA performance review

The PSA’s annual review of our performance for 2013/14 was published on 27 June 2014 and can be found on their website at www.professionalstandards.org.uk

Key Performance Indicators (KPIs)

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 per cent 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 per cent 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 FTP team and continued high quality case management.

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

During this period 49 cases have been referred to the FTPC of which 34 cases were served by the Hearings Manager; 69 per cent of cases have met the KPI.

The median time between referral by the IC and service on the Hearings Manager is 30 weeks.

This target, and others, will be subject to review during 2014/15. Work is underway to ensure improved performance.

The PSA Performance Review this year noted that we have 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. In addition, we have been implementing a programme of major legislative reform.

We are committed to continuous improvement and to further reducing the time it takes to process our cases at each stage with the aim of completing the majority of cases within 12 months. All cases are being actively managed and monitored from the beginning to the end of our processes to ensure the most efficient and effective service throughout, in the interests of public protection and fairness to registrants.

Feedback on this annual report would be welcome. If you have any comments then please contact Mandie Lavin, Director of Regulation, on mlavin@optical.org