

GOC/COVID/05

Date of statement: 26 March 2020 (updated 1 May 2020 and 1 June 20)

## **General Optical Council (GOC) statement on our approach in fitness to practise for the service of documents and facilitating hearings during the COVID-19 emergency**

1. As the UK regulator for the optical sector, we are committed to protecting the public, maintaining high ethical standards and taking all concerns raised with us seriously. During these extraordinary times, we are committed to taking a proportionate and fair approach when investigating and acting on concerns about the fitness to practise of those whom we regulate.
2. In this statement we set out how we will approach investigations and hearings during this emergency period and any adaptations to our processes under the Fitness to Practise Rules 2013 ('the Rules').
3. In taking the steps set out below, we are putting our overarching objective – the protection of the public – at the forefront of our efforts to continue maintaining our functions during this challenging period. We also recognise that it is important to registrants, and to all other parties involved in our fitness to practise proceedings, that we continue to progress cases as swiftly as we can. In doing so, we will be sensitive to any personal and practical difficulties caused to all case participants by, for example, illness, self-isolation, travel restrictions and school closures.

### **Service of notifications and notices (fitness to practise proceedings)**

4. Section 23A of the Opticians Act 1989 and rule 61 of the Rules create requirements in respect of the service, by post, on registrants of notifications and notices relating to our fitness to practise process.
5. In complying with Government advice that employees should work from home where possible, we have only very limited access to our premises at 10 Old Bailey, and it is no longer practical for us to comply with some of our previous processes. Therefore, with effect from Monday 23 March 2020, in order to continue to be able to maintain our fitness to practise function, and our overarching legal objective under section 2A of the Opticians Act, to protect the public, we have moved to a process of serving all notifications, notices and documents electronically via our secure email systems (Egress or Tresorit). Service will be to the email address that the registrant has registered with us.
6. We therefore ask all registrants to ensure that their contact details are up to date on their MyGOC account. To ensure confidentiality, and in compliance with our data protection obligations, we ask registrants to ensure that they have registered a personal email address with us.

7. Where there is no email address registered with us, or where there is a business email address registered, we will contact the registrant to request a personal email address.
8. This will apply to all notifications, notices and documents relating to new or existing fitness to practise proceedings. It will therefore include (but is not limited to) the following documents that are currently served by recorded delivery post:
  - initial notification letters to registrants (new fitness to practise investigation);
  - requests to unrepresented registrants for representations (case examiner stage);
  - case examiner decision letters;
  - rule 29 disclosure to unrepresented registrants of the GOC's final case;
  - interim order application documents;
  - interim order review documents;
  - High Court extension applications;
  - substantive order review documents;
  - hearing bundles, witness lists and skeleton arguments;
  - all notices of hearing; and
  - all Fitness to Practise Committee determinations.
9. Where a registrant is represented, we will continue to serve documents electronically on any representative, as per existing practice. If a registrant has no access to equipment for viewing Fitness to Practise Committee hearing documents electronically, or where equipment is unsuitable (e.g. a mobile phone screen), we will use our best endeavours to provide the registrant with a hard-copy hearing bundle.

### **Holding substantive and non-substantive hearings (fitness to practise proceedings)**

10. The current position is that physical hearings are not taking place at our London office, but this will continue to be subject to review in line with current and future Government guidance. Where possible, we will hold remote virtual hearings via teleconference or video-link, or on the papers. If either party considers that these methods are unsuitable then an application to adjourn should be made in accordance with rule 35.
11. During the emergency, decisions to adjourn proceedings may be taken by the Head of Hearings (or nominated deputy) in situations where both parties agree. Where there is disagreement between the parties, the Fitness to Practise Committee will continue to make decisions in line with rules 35-37.
12. Virtual hearings will include the following attendees: committee members, legal adviser, hearings officer, GOC presenting officer, registrant, registrant

representative(s) (if applicable), transcriber, clinical adviser (if applicable) and witnesses (if applicable).

13. Those hearings held on the papers will be conducted in compliance with our [guidance for hearings on the paper](#).
14. Rule 25(1) requires that substantive hearings must be held in public. To support this, we will provide a dial-in link to our virtual public hearings in order that interested parties can attend. This link will be allocated via a request to the hearings team in advance and is subject to a maximum limit. There may be occasions when the Fitness to Practise Committee need to deliberate in private and a separate line will be enabled for this to occur. Occasionally, the committee may consider it appropriate, in accordance with rule 25(2), that the entire hearing should be in private. All determinations will continue to be made public on our website ([Hearings section](#)).
15. Rule 60 requires that a verbatim record is taken of every hearing before the Fitness to Practise Committee and this will be retained for virtual hearings. It will remain open for any member of the public to request a transcript of proceedings in accordance with our guidelines.

**The GOC will keep this statement under review**

16. Next routine review due: not later than 31 January 2021.