

Response to the General Optical Council consultation on regulation of optical businesses

January 2025

1. Introduction

- 1.1 The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk
- 1.2 As part of our work we:
- Oversee the ten health and care professional regulators and report annually to Parliament on their performance
 - Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
 - Conduct research and advise the four UK governments on improvements in regulation
 - Promote right-touch regulation and publish papers on regulatory policy and practice.

2. General comments

- 2.1 We welcome the opportunity to comment on the General Optical Council's (GOC's) consultation on regulation of optical businesses. We are pleased to see the GOC taking a proactive approach to preparing for the possibility of regulatory reform. The extensive thinking and consultation that the GOC has already undertaken in relation to its future powers will mean it is well placed to move forward with reform, should the opportunity arise.
- 2.2 We welcome the majority of the proposals put forward by the GOC in relation to the regulation of optical businesses. We were pleased to see references in the consultation to our 2022 publication *Safer care for all*¹, in which we highlighted some of the key challenges faced by the GOC in regulating businesses. The GOC has also largely sought to ensure that the proposals put forward align with our Right-touch regulation principles.²
- 2.3 We strongly support the GOC's proposal to regulate all optical businesses, which we believe would result in greater public protection as well as ensuring fairness across the sector. There are a few instances where we are not

¹ [Safer care for all. Solutions from professional regulation and beyond](#)

² [Right-touch regulation | PSA](#)

persuaded that the proposals put forward are proportionate to the risks (for example, in relation to the consumer redress scheme) and these are set out in our responses below.

- 2.4 We do not have a view on a number of the questions posed in the consultation and these questions have therefore been omitted from our response.

3. Detailed comments

General questions

Q1. To what extent do you agree or disagree that GP practices and hospitals (NHS and independent) carrying out restricted functions listed in paragraph 23 should be exempt from GOC business regulation?

c) Neither agree nor disagree

Please explain your reasoning (including any unintended consequences of our proposals).

- 3.1 The approach the GOC sets out seems sensible in light of the fact that such settings are already registered and regulated by the Care Quality Commission, Healthcare Inspectorate Wales, the Care Inspectorate and Healthcare Improvement Scotland, or the Regulation and Quality Improvement Authority (Northern Ireland).
- 3.2 In line with the principles of Right-touch regulation³ we believe that all regulation should be risk-based, and that regulators should only intervene where necessary. While the approach set out by the GOC appears to align with these principles, without a fuller understanding of the risks involved or any potential gaps that may arise from this approach we are not in a position to provide a definitive answer. We recommend that the GOC engages with the relevant system regulators across the four nations to understand the full implications of the proposed approach.

Q2. Do you think that commercial units operating in GP practices and hospitals that are providing the restricted functions listed in paragraph 23 should be regulated by the GOC?

c) Not sure

Please explain your reasoning (including any unintended consequences of our proposals).

- 3.3 Our position, as set out in our response to the GOC's call for evidence on the Opticians Act⁴ is that regulation by the GOC should be extended to include all businesses providing restricted functions. This would end the disparity between businesses and ensure they comply with minimum standards. We believe it would make the system fairer and safer.

³ [Right-touch regulation | PSA](#)

⁴ [Professional Standards Authority response to GOC call for evidence on the Opticians Act | PSA](#)

- 3.4 However, in the case of commercial units operating in GP practices and hospitals it would be useful to understand what other regulatory oversight would apply and therefore the current level of unmanaged risk. We welcome the GOC's position of working with the relevant regulators to better understand the need for regulation for this category of optical business.

Q3. To what extent do you agree or disagree that charities providing the restricted functions listed in paragraph 23 should be regulated by the GOC?

a) Strongly agree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.5 We agree with the GOC's approach of considering both the clinical environment in which care is delivered, and the vulnerability of the patients served, in determining whether regulation is appropriate. We note also the advice the GOC received from the Charity Commission that they do not regulate the clinical services charities provide. The Charity Commission's objectives, as set out in the Charities Act 2011⁵ are not aligned (and would not be expected to be so) with those of the GOC. It would therefore not be appropriate to expect the Charity Commission to manage the regulatory risks involved in providing optical services. The Charity Commission therefore advised the GOC that that dual regulation would be better than gaps in regulation.
- 3.6 The proposal to regulate charities providing restricted functions would therefore appear to be appropriately risk-based. Further, while we do acknowledge the potential downsides of imposing regulation on charities, as a general principle we believe that regulation should be consistent.⁶ This includes being consistent between providers. Creating 'loopholes' in terms of which providers are regulated also has the potential to create unintended consequences.

Q4. To what extent do you agree or disagree that university eye clinics providing the restricted functions listed in paragraph 23 should be regulated by the GOC?

a) Strongly agree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.7 In line with our response to Q3, it would seem appropriate to regulate university eye clinics in order to better manage the risks associated with providing the restricted functions and to ensure consistency of approach with other providers.

⁵ [Charities Act 2011](#)

⁶ Consistency is one of the principles of the PSA's right-touch regulation model (see: [Right-touch regulation | PSA](#))

Q5. Q5. To what extent do you agree or disagree that the GOC should have a discretionary power to exempt particular businesses from registration?

a) Strongly agree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.8 The proposal that the GOC should have discretionary powers to exempt providers from having to register may have advantages in terms of future-proofing the legislation. Whilst the consultation sets out a range of provider types that *may* be exempted, with reference to the relative risks in each case, no overarching criteria for exemption are provided. Were the GOC to move forward with this proposal we would expect to see a clear framework setting out the approach to exemptions and guidance for decision-makers to ensure consistency of approach. Further, the GOC would need to be mindful of how such exemptions would be communicated to the public.

Q6. To what extent do you agree or disagree with our proposal to remove the requirement for some bodies corporate to have a majority of registrant directors?

a) Strongly agree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.9 We agree that the requirement for some bodies corporate to have a majority of registrant directors should be removed. It risks businesses distorting their structure in order to fit the requirement in a way that may not be beneficial to the business or the public it serves, or necessary to manage risk. We also agree with the GOC's assessment that this requirement may act as a barrier to entry, as well as having a range of other unintended consequences.
- 3.10 However, the concern that this requirement is seeking to address (namely that clinical decision-making may be compromised by commercial considerations) is a real one. As we outlined in our 2022 report *Safer care for all*⁷ there are longstanding concerns that some businesses within the optical sector are prioritising commercial considerations above patient care. This includes using 'hard sell' tactics to persuade customers to sign up for laser eye surgery, up-selling expensive lenses, or failing to give patients their prescription so that they can buy glasses elsewhere.
- 3.11 Concerns about the risk to patients of certain business practices are also highlighted in numerous GOC registrant surveys. For example, the 2024 survey finds that '*some respondents... found the focus of their employer on sales targets and profit posed a significant barrier to safe patient care*'.

⁷ [Safer care for all. Solutions from professional regulation and beyond](#)

Insufficient time to conduct sight tests, double booking of patients and understaffing were all mentioned as areas of concern.⁸

- 3.12 We have no evidence that the requirement to have a majority of registrant directors guards against these risks. However, we do believe that regulators need to tackle business practices that fail to put patients first, risk undermining confidence in the professions, or fail to allow registrants to exercise their professional judgement. Removing the requirement for a majority of registrant directors should therefore sit alongside other reforms to ensure that patient care is prioritised by optical businesses.

Q7. Should all businesses be required to appoint a head of optical practice?

c) Not sure

If there are businesses that you think this arrangement should not apply to, please explain which ones and your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.13 We agree that any new system of business regulation must include mechanisms to support compliance. The proposal for all businesses to appoint a Head of Optical Practice is appealing and the case is well set out by the GOC in the consultation document.
- 3.14 It remains our view, as set out in response to the GOC's call for evidence on the Opticians Act⁹, that there should be a review of the powers of all regulators with a role in regulating businesses to establish the most appropriate regulatory model. This would include reviewing the strengths and weaknesses of the different models of business regulation in managing risks arising.

Q17. In relation to the GOC's powers to impose a financial penalty on business registrants, which option do you favour?

a) Power to impose an uncapped financial penalty

Please explain your answer, including any advantages, disadvantages and impacts.

- 3.15 We highlighted the inadequacy of the GOC's maximum financial penalty of £50,000 in our report *Safer care for all*.¹⁰ The GOC consultation sets out how this maximum figure, set in 1958, would equate to almost one million pounds today had it kept pace with inflation. This figure is clearly insufficient when set against the turnover of most optical businesses. It is unlikely to have a deterrent effect and, as the consultation points out, may be less than the cost of compliance with the GOC's standards.

⁸ [goc-registrant-workforce-and-perceptions-survey-2024-research-report-final-with-appendices.pdf](#)

⁹ [Professional Standards Authority response to GOC call for evidence on the Opticians Act | PSA](#)

¹⁰ [Safer care for all. Solutions from professional regulation and beyond](#)

- 3.16 The possibility of imposing an uncapped fine would ensure that the GOC's legislation remained future-proof. Clearly the details of how the quantum of the fine would be arrived at requires careful consideration; we welcome the GOC's detailed assessment of how this might be done.

Q18. To what extent do you agree or disagree that introducing a power to visit businesses as part of the fitness to carry on business process could give the GOC greater powers to protect patients and the public?

b) Somewhat agree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.17 As we set out in our response to the GOC's call for evidence on the Opticians Act¹¹ we believe that the powers of all regulators with a role in regulating businesses should be reviewed. The review should focus on the effectiveness and adequacy of current powers (e.g. inspection powers, powers to require businesses to register, levels of fines etc), and whether they are sufficient to protect the public and hold businesses to account.
- 3.18 We see potential benefits in the GOC having powers to visit businesses in order to more clearly establish the facts in a particular case. As with all additional regulation however, it would be important to clearly establish the unmanaged risk arising from the current model and whether visiting powers would be the appropriate mechanism to address this. Any proposals to introduce additional regulation, especially where this might impose costs on businesses, would of course need to be carefully considered.

Q19. To what extent do you agree or disagree that it should be mandatory for business registrants to participate in the consumer redress scheme?

c) Neither agree nor disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.19 While we agree that there would be benefits to businesses voluntarily participating in the consumer redress scheme, we are not aware of evidence of public protection risks that would justify making participation mandatory. All additional regulatory burdens should be clearly justified in relation to the GOC's overarching objective of public protection and be proportionate to the risks involved. Further, making participation mandatory risks the process becoming more adversarial and, as the GOC has noted '*arguably goes against the essence of mediation as a process with which parties engage voluntarily and constructively to resolve a dispute.*'¹²

¹¹ [Professional Standards Authority response to GOC call for evidence on the Opticians Act | PSA](#)

¹² https://consultation.optical.org/uploads/61332112-fb60-469b-90bf-3930dbc4b060/project_file/file/9cdd5bc2-16a9-4fd8-bf7c-2ff050997a27/Consultation_document_-_business_regulation_FINAL_241018.pdf

Q20. To what extent do you agree or disagree that the consumer redress scheme should have powers to make decisions that are legally binding on businesses?

c) Neither agree nor disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

- 3.20 We have not seen evidence risk to public protection, which would warrant changing the nature of the consumer redress scheme to make decisions legally binding.

Q23. Are there any aspects of our proposals that could discriminate against stakeholders with specific characteristics? (Please consider age, sex, race, religion or belief, disability, sexual orientation, gender reassignment, gender identity, gender expression, pregnancy or maternity, caring responsibilities or any other characteristics.)

c) Not sure

If yes, please explain your reasoning.

- 3.21 We have not identified any aspects of the proposals that could discriminate against groups with specific characteristics. We welcome the fact that the GOC has completed and published an impact assessment to sit alongside the consultation.

Q24. Are there any aspects of our proposals that could have a positive impact on stakeholders with specific characteristics? (Please consider age, sex, race, religion or belief, disability, sexual orientation, gender reassignment, gender identity, gender expression, pregnancy or maternity, caring responsibilities or any other characteristics.)

a) Yes

If yes, please explain your reasoning.

- 3.22 We agree with the GOC's assessment as set out in the accompanying Impact Assessment that the proposals may have positive effects on groups with certain characteristics. The proposals may benefit groups with shared characteristics relating to age, disability, sex, and race.

4. Further information

- a. Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

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