

Response form for *Developing the Competition Oversight and Integrated Care Licence Conditions: Stakeholder Engagement Document*

If you would like any part of the content of your response (as distinct from your identity) to be kept confidential, you may say so in a covering letter.

We would ask you to indicate clearly which part or parts of your response you regard as confidential. We will endeavour to give effect to your request, but as a public body which is subject to the provisions of the Freedom of Information legislation, we cannot guarantee confidentiality.

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Nature of organisation: Membership Body

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Please write your answers to the following questions below. Please expand the boxes or continue on further sheets if necessary. Then follow the instructions at the end of this form to return your response to Monitor.

Monitor consultation 4: competition oversight and integrated care

The Optical Confederation represents the 12,000 optometrists, 6,000 dispensing opticians, 7,000 optical businesses and 45,000 ancillary staff in the UK who provide high quality and accessible eye care services to the whole population. As a Confederation we work with others to improve eye health for the public good.

Once again, whilst we can see the benefits of this form of regulation for traditional NHS providers, and we fully support the 10 principles and rules for co-operation and competition, we feel that:

- the optical sector is already structured to meet all these aims
- to bring the optical sector within this regulation would therefore be duplicatory and an unnecessary burden on small and medium-sized enterprises (SMEs)
- on these grounds the optical sector should be exempted under Clause 82 of the Health and Social Care Bill.

As noted above, uniquely amongst NHS providers, the optical sector is an open, free and highly competitive market. Because of the way the NHS and private fees systems are deliberately constructed, each and every patient has value for optical providers who

compete vigorously to attract them. Providers' income depends entirely on the patients they can attract through the door on the bases of their services, products, quality, accessibility and pricing.

As described in our previous responses to these consultations, the optical sector is already subject to two levels of regulation

- normal business regulation including companies law, competition law, advertising standards, monopolies and mergers, etc
- as well as being regulated in the case of independent practice and optical bodies corporate by the (optics-specific) General Optical Council.

The optical sector does not provide protected or vital services in the way the new commissioning regimes intend those terms to be used and, as described in our response to Continuity of Service already have very effective ways of managing market entry and exits without detriment to patients or continuity of care.

Control of entry to the NHS primary eye care or optical market is via the NHS Commissioning Board ensuring standards are met in terms of premises, equipment, record keeping and staff.

Subject to those conditions, any provider can enter the market and will succeed or otherwise on the number of patients he/she can attract against the parameters of quality, access, choice and value for money.

Shared care

Notwithstanding our belief stated above that the optical sector should be exempted from the Monitor licensing regime, a particular concern we have in respect of the "competition, oversight and integrated care" aspects of Monitor's licensing proposals relate to the development of shared care between particularly hospital ophthalmology departments and community optical practices to achieve Quality, Innovation, Productivity and Prevention (QIPP) goals and integrated care pathways.

We fully support the expansion of hospital ophthalmology services which we believe have long been underprovided, particularly to meet the expanding public health needs of an ageing population, specifically age related macular degeneration, diabetic retinopathy and cataract.

What we would wish to protect against is a Foundation Trust behaving in anti-competitive ways simply to draw in ophthalmology patients that could be managed in the community with equal clinical effectiveness, and greater cost-effectiveness, simply to draw in funds to cross-subsidise other non-ophthalmic areas of hospital care.

This is not an attack on hospital ophthalmology and optometry, which as we say above, we believe should be expanded to meet growing needs. Rather it is an issue of how Foundation Trusts allocate their overheads and costs internally and between services. Greater transparency here would benefit all and it would be helpful from our

perspective if Monitor could give consideration to addressing these issues in this area of licensing.

Mark Nevin
Director of Policy and Regulation
On behalf of Optical Confederation

Question 1: How should we incorporate the current PRCC into our licence conditions? Please give reasons for your answer.

The community optical sector already complies with PRCC and we would be opposed to unnecessary replications in the licensing regime.

Question 2: How should our licence conditions encourage flexibility in the shape of services provided by licensees? Please give reasons for your answer.

Notwithstanding our belief stated above that the optical sector should be exempted from the Monitor licensing regime, we fully agree that it is important that licence conditions and guidance give licensees enough flexibility to shape the services that patients, service users and commissioners need and want. We agree that the licence conditions should recognise that a case-by-case assessment of whether patients are likely to benefit from integration initiatives will usually be required.

Question 3: How should we allow for case-by-case assessments in developing our licence conditions? Please give reasons for your answer.

We agree that the principles of competition and integrated care are not contradictory and that both can co-exist and complement each other. We agree that licence conditions should not be constructed so as to prioritise one responsibility over the other.

Question 4: How should we develop licence conditions to facilitate integrated care? Please give reasons for your answer.

We agree that patients should have the information they need to make informed decisions about care (as should commissioners). We also agree in principle that this should be

mandatory but would again caution against this becoming an unduly bureaucratic and burdensome requirement for NHS providers. In accordance with the Better Regulation principles, reasonableness and proportionality are key. The default position for NHS contracts let by Clinical Commissioning Groups should be to provide for

- effective and documented hand-over of patients between services
- information to patients about the care pathway and the stage they are at on the pathway at any given time
- provision of hand-over information from clinician to clinician and between services – wherever possible by means of standardised referral letter and discharge summary formats - with copies of these being given to patients and emailed in a timely fashion between providers and clinicians.

We hope this contribution is helpful and are willing for our comments to be made public.

Engagement process

Thank you for responding to this engagement document. Please save this document and email it to licensing@monitor-nhsft.gov.uk with 'Competition oversight and integrated care' in the subject line.

Alternatively, you can fax your response to 020 7340 2401, or post it to:

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Licensing Conditions Engagement
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This document *Developing the Competition Oversight and Integrated Care Licence Conditions: Stakeholder Engagement Document* was issued on 16 December 2011. Please submit your responses to the questions and any other comments that you have by 5pm on 23 January 2012. There will also be subsequent opportunities to respond to our licensing engagement documents.

If you wish to do so, you can request that your name and/or organisation be kept confidential and excluded from the published summary of responses. Please tick this box to ensure confidentiality.