

Response form for *Developing the Pricing 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.

Full name: Mark Nevin

Job title: Director of Policy and Regulation

Organisation: Optical Confederation

Nature of organisation: Membership Body

Contact address: 199 Gloucester Terrace, London W2 6LD

Telephone number: 0207 298 5151

Email: mark@fodo.com

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 January 2012 - Pricing consultation

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.

As explained previously, and also in our response to the Monitor consultation on developing the General Licence Conditions, we believe that the community optical sector should be exempted from Monitor licensing under Clause 82 of the Bill. This is particularly so in the case of the proposals for the Pricing Condition.

Primary Ophthalmic Services - Fees

In the case of fees for Primary Ophthalmic Services (POS) we have been advised by the Department of Health that these will be:

- agreed nationally with the NHS Commissioning Board for General Ophthalmic Mandatory and Additional Services (i.e. sight testing and any other national services)

- locally with Clinical Commissioning Groups (or possibly by the NHS Commissioning Board, depending on final discussions on the Health and Social Care Bill in Parliament) for local community-based enhanced optical services, e.g. glaucoma referral refinement and management, cataract diagnosis, referral, pre-op and follow-up, minor optical emergencies etc.

In the case of nationally agreed fees, we understand that (in common with fees for the three other contractor professions: General Medical and Dental Services and Community Pharmacy) there will be no need for Monitor to have a role in this.

As far as locally commissioned enhanced services are concerned, as we have explained previously, uniquely in the NHS, community optical providers operate in a fully open and highly competitive market which means that, to survive, each practice has to compete vigorously for each and every patient, all of which have value for the practice. The money therefore follows the patient directly and every patient counts. This means that our market has long been structured in favour of competition which has delivered high levels of quality, access, choice and value to both the NHS and individual patients. Supply always exceeds demand which means NHS Commissioners are able to negotiate high quality value for money services.

The corollary of this of course is that most practices operate on extremely tight margins at the very edge of efficiency. Furthermore, to add any unnecessary burdens could risk upsetting the current equilibrium in the community optical market – driving some out of business, not only reducing choice, but also jeopardising the very competition on which the NHS and patient benefits depend.

Operating in an open market, community optical providers, in addition to being registered with the General Optical Council, are fully subject to normal business regulation including the Companies' Act 2006, the Office of Fair Trading, and Advertising Standards etc.

It follows that we believe that price regulation through Monitor is unnecessary in our sector and, worse, could have a potentially detrimental effect by imposing additional and unnecessary regulatory burden on businesses (many of which are small yet which provide essential access in key areas eg in remote communities) without any patient or NHS benefit.

The further regulatory requirements, as outlined in the proposals for licensing in this Chapter, if applied to optical providers, would add an unnecessary and substantial burden as we are outside the national tariff, and would have the negative consequence of reducing supply and hence patient choice and access.

This would not only be detrimental to access and patient care but would, in our view, breach the Government's Better Regulation Strategy, which seeks to "eliminate obsolete and inefficient regulation" and the Better Regulation principle of "targeting" regulation only where it is needed.

Any Qualified Provider

Where Monitor will interface with community optical practice will be where community optical providers offer services under the AQP. We would be keen to ensure that community optical providers are not excluded from bidding to provide services under the AQP regime simply by virtue of being exempted from Monitor regulations.

It is in the light of these comments that we respond to the consultation questions where we believe we have value to add, as below.

We are happy for our response to be made public.

Mark Nevin
Director of Policy and Regulation

Question 1: Do you agree that requiring all licensees to record data on a consistent basis would result in benefits to patients? Please give reasons for your answer.

Yes

Provided it is applied to traditional state-owned NHS providers, such as NHS hospital trusts where data quality has always been an issue, or to providers who will draw significant parts of their income from the national tariff.

As stated above, we strongly believe that the community optical sector should be exempted from the Monitor licensing regime. To impose this sort of burden on community optical practices would be unnecessary, disproportionate and potentially catastrophic for many in the optical sector, which currently deliver significant benefits of quality, access and price to both patients and the NHS.

Question 2: Do you have any suggestions as to how we could reduce the costs associated with the requirement for all licensees to record data on a consistent basis?

Yes

This is not really a matter for us. However, as providers with considerable experience of contracting with the NHS, we suggest that sampling would be just as good a method of collecting the necessary data as requiring information from each and every provider (which would itself create significant processing costs for Monitor).

Instead we would suggest that additional funding is added to the tariff for data collection for a sample of providers who have opted (or who have been chosen) to provide such data.

This would be in line with Monitor's stated aim that "the pricing system would provide proper reimbursement for services. A failure to do this could result in detrimental quality or could require significant cross subsidisation from other services. Both of these outcomes could be unsustainable." (p.5)

Question 3: Do you have any suggestions as to the level and type of stakeholder engagement and consultation we should conduct on our supplementary guidance?

Yes

Our experience of working with governments and the NHS over many years suggests that there is scope for much to go wrong here. We would therefore recommend full and transparent engagement with all stakeholders who register an interest. This would be consistent with the principles of Better Regulation and ensure that the new system worked as effectively as possible in the interests of patients.

Question 4: Do you agree that licensees should be required to provide us with information in order to support the calculation of the National Tariff? Please give reasons for your answer.

We are not covered by the national tariff and therefore have no specific views.

Question 5: How frequently do you think licensees should be required to provide this information?

We are not covered by the national tariff and therefore have no specific views.

Question 6: Do you think that it is necessary for us to be able to request assurance reports from licensees on information that they submit to us? Please give reasons for your answer.

Yes

We are sure that all providers would welcome Monitor's reassurance that requests for assurance reports would only be made where necessary and that assurance reports would not be required from all licensees for all information submissions and that in some cases an independent or internal review would suffice.

We also note the recognition that requiring insurance reports will impose additional costs on some licensees (Page 14).

If our suggestion above of sampling is accepted, e.g. for sentinel services and sentinel trusts and hospitals, then assurance reports should be required and the costs built in to additional funding for those providers to ensure the data quality required. This would then be specifically and transparently funded and would not be an unnecessary burden on all providers.

Question 7: Do you have any suggestions as to how we could minimise the costs associated with requiring assurance reports without reducing the benefits we envisage?

Please see answer to Question 6.

Question 8: Can you suggest other methods we could use to ensure that we obtain good quality information from licensees?

Please see answer to Question 6.

Question 9: Do you agree that requiring licensees to comply with the National Tariff, even though it would already be a requirement of the Bill, would allow us to take timely and effective enforcement action? Please give reasons for your answer.

We are not covered by the national tariff and therefore have no specific views.

Question 10: Is there anything additional that you think we could or should do in order to encourage commissioners to comply with the National Tariff? Please give reasons for your answer.

We are not covered by the national tariff and therefore have no specific views.

Engagement process

Thank you for responding to this engagement document. Please save this document and email it to licensing@monitor-nhsft.gov.uk with 'Pricing Licensing Conditions' in the subject line.

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

Monitor
Licensing Conditions Engagement
3rd Floor, Wellington House
133-155 Waterloo Road
London SE1 8UG

This document *Developing the Pricing 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.