

Guidance on Social Media and Electronic Communication

Summary

A 2010 survey by the Office of National Statistics revealed that 73 percent of households had Internet access (almost double the estimate in 1996) and that 30.1 million adults used the Internet every day or nearly every day¹. In these circumstances, it is hardly surprising that professionalism in the virtual sphere is now as important as professionalism in the real world.

This guidance aims to assist optical professionals, students and businesses in ensuring that they comply with their obligations in this area.

General Optical Council - Codes of Conduct

The General Optical Council (GOC) Codes of Conduct² apply to online activity and communication just as much as to face-to-face contact.

The following paragraphs of the Code of Conduct for Individual Registrants are particularly relevant to professionalism in the virtual world:

- *Paragraph 2: Treat every patient politely and considerately.*
- *Paragraph 3: Respect patients' dignity and privacy.*
- *Paragraph 10: Be honest and trustworthy.*
- *Paragraph 12: Respect and protect confidential information.*
- *Paragraph 15: Never abuse your professional position.*
- *Paragraph 19: Ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession.*

The Code of Conduct for Business Registrants contains the following key provisions:

- *Paragraph 2: Require as a condition of employment or engagement that those individual registrants currently employed or otherwise engaged to provide optical services comply with the GOC's Code of Conduct for Individual Registrants.*
- *Paragraph 3: Not knowingly act in a way which might contribute to or cause a breach of the Code of Conduct for Individual Registrants by any individual registrant employed or otherwise engaged by it to provide optical services.*
- *Paragraph 6: Respect and protect confidential information for both patients and employees in accordance with current legislation.*
- *Paragraph 8: Provide mechanisms to enable those that work for or are otherwise engaged by the business registrant to raise concerns about risks to patients.*
- *Paragraph 10: Ensure that the criteria applied in this code are applied as may be appropriate to registered medical practitioners in relation to the GMC and any other relevant codes and guidance.*

¹ Internet access 2010: Households and Individuals (published 27 August 2010).

² As launched 1 April 2010.

College of Optometrists - Code of Ethics and Guidelines on Professional Conduct

The following sections of the College's guidance might also be helpful:

- *A1: Professional integrity*
- *A2: The patient-practitioner relationship*
- *A5: Inter- and intra- professional relationships*

What are the potential pitfalls for optical professionals and businesses?

Breaches of confidentiality

The speed at which information can be sent, whilst a significant benefit of electronic communication, is also one of the areas of greatest risk for optical professionals, who must ensure that patient confidentiality is maintained at all times. Using an incorrect fax number or email address when sending confidential information is likely to have serious consequences; not just for the individual sending the information, who could find their job in jeopardy, but also for the employing organisation.

- *The Central London Community Healthcare Trust received a £90,000 penalty after what the Information Commissioner's Office deemed a "serious breach of the Data Protection Act" resulted in the Trust sending 45 faxes over three months to the wrong place. The information consisted of sensitive personal data on 59 different people, included details of their diagnoses and domestic circumstances³.*
- *The Aneurin Bevan Health Board in Wales was fined £70,000 for inadvertently emailing a medical report containing sensitive information about a patient to the wrong person⁴.*

Similarly, optical professionals using social networking websites to unwind after a difficult day or a professional examination or to communicate informally with colleagues may also be at risk of inadvertently disclosing confidential information in the process.

- *Following information disclosed under the Freedom of Information Act, pressure group Big Brother Watch reported that between July 2008 and July 2011 there were 23 incidents of patient information being posted on social networking sites⁵.*
- *In July 2012, the College of Optometrists launched an investigation into pre-registration examination candidates exchanging information about examination questions in a Facebook discussion group⁶.*

Blurring professional and private boundaries

Many practitioners who are confident in dealing with inappropriate personal advances from patients in real life find themselves wrong footed when such approaches are made in the virtual world. However, the need to avoid transgressing appropriate

³ The Guardian, Monday 21 May 2012.

⁴ The Guardian, Monday 30 April 2012.

⁵ NHS Breaches of Data Protection Law: *How patient confidentiality was comprised five times every week.* A Big Brother Watch report. October 2011.

⁶ The College of Optometrists' statement on student misconduct – 12 July 2012.

patient/practitioner boundaries remains just as relevant and any on-line presence should reflect this.

- *In 2009, the Medical Defence Union Journal reported the case of a patient who began sending gifts to a female doctor at his GP practice. It was subsequently revealed that he had discovered information about the type of presents she might like through personal information accessible on her Facebook account⁷.*
- *In 2010, a nurse was struck off the Nursing and Midwifery Council (NMC) register for conducting an inappropriate sexual relationship with a former patient whom he had contacted via Facebook shortly after she was discharged⁸.*

Bringing the profession into disrepute

There are many discussion forums that allow optical professionals to voice their opinions on a wide range of issues. However, as registered professionals, optometrists and opticians can be held accountable for those opinions (whether under a username associated with their profession or otherwise) and so professional behaviour and discretion at all times and in all media are essential. Comments that would be offensive or unsavoury if uttered out loud become no less so when posted on-line.

- *In 2011, a panel of the Conduct and Competence Committee of the Health Professions Council (HPC) issued a caution to a paramedic who posted comments which were “demeaning to patients” on his Facebook page. The panel were of the view that the paramedic’s conduct was “irresponsible, immature and highly unprofessional”⁹.*

Adversely impacting upon ongoing regulatory proceedings

Regulators are increasingly aware of the importance of social media sites and it is now possible for a practitioner under investigation to find comments posted on-line influencing that investigation. A comment revealing a lack of insight or disrespect for the proceedings can have unfortunate consequences if brought to the attention of the regulator.

- *A paramedic convicted of dishonesty offences posted comments on his Facebook page which a panel of the Conduct and Competence Committee of the HPC deemed “highly inappropriate,” undermining his claim that he had insight into his conduct¹⁰.*
- *When considering a nurse’s conviction for assault, a panel of the NMC’s Conduct and Competence Committee had regard to his post on Facebook, which stated: “Apparently nurses aren’t supposed to [headbutt] people... not even in their free time... lol”¹¹.*

There has already been at least one instance of a panel of the GOC’s Fitness to Practise Committee admitting a Facebook post into evidence, although on that occasion it was in support of the registrant’s defence.

⁷ Cuzner E. The hidden dangers of social networking. *MDU Journal Vol.25 Issue 2 (November 2009), p13.*

⁸ *Facebook trials and tribulations: Social networking sites and their joys and dangers*, p3 (The Nursing and Midwifery Council).

⁹ *Health Professions Council hearing on 27 April 2012, Small.*

¹⁰ *Health Professions Council hearing on 13 February 2012, Kingdom.*

¹¹ The Argus, 11 February 2012. (<http://www.theargus.co.uk>).

- *In 2009, when considering conduct allegations in respect of a registered student optometrist, a panel of the Fitness to Practise Committee of the GOC were provided with copies of a Facebook message he had received from a GOC witness. The panel confirmed in its determination that it had “carefully considered” this information, along with other evidence¹².*

In view of this precedent and also the approach being taken by other regulators, it may only be a matter of time before a GOC panel decides to admit Facebook or other posts into evidence that serves to undermine, rather than support, the defence case.

How can these pitfalls be avoided?

The key is to remember that on-line professional conduct should mirror conduct in the real world: if you would not say or do it in real life, you should not say or do it on-line.

The following guidance may be of help to individuals and businesses in navigating the virtual sphere:

1. Never share confidential patient information on-line

- Remember that the sum of information posted may breach confidentiality even if each individual post does not.

2. Be careful when sending information electronically

- When sending confidential information by fax, email or other electronic means, ensure that you have the correct address. If you are unsure, send a “test” in the first instance and request confirmation on receipt.
- If using a memory stick, ensure that it is encrypted.

3. Use social networking websites with caution

- Keep your personal and professional life separate. There are networking sites solely for professional colleagues and you may wish to use these for work contacts.
- Check your privacy settings to control what information you share with whom (although you should always proceed on the basis that information you intend to be private could become public). Keep these settings under regular review as changes are often made when the site is updated.
- Avoid accepting requests from patients or former patients to become on-line “friends”. This increases the risk of inappropriate (including inadvertent) boundary transgressions.
- Give yourself a username not linked to your profession but remember that this does not guarantee anonymity: your comments may still be traced back to you.

4. Think before you post.

- Do not post personal or derogatory comments about patients or colleagues.
- Be aware that defamation law can apply to any comments posted on the web made in either a personal or professional capacity and could result in legal action

¹² General Optical Council hearing on 11 and 12 March 2009, Roewall.

against individuals or organisations. Defamation is the act of making an unjustified statement about a person or organisation that may harm their reputation.

- Remember that once posted, your comments may be circulated more widely than you had intended and are likely to be permanently accessible. Posts, pictures, images, tweets, status updates (content in general) can stay online forever. (CIPR Social Media Best Practice Guide 2011)
- If you are part of a discussion forum for other optical professionals, exercise care to avoid any improper disclosures or conflicts of interest. (Please note that this is distinct from appropriate information sharing in a properly controlled peer review environment).
- Ensure your on-line conduct is consistent with your professional obligations at all times.

In addition, corporate registrants may wish to consider the following important questions:

- Have you issued clear guidance and policies to your employees on the use of social networking sites and other on-line communication forms?
- Have you linked your guidance and policies to the relevant sections of the GOC code of conduct?
- Are your managers trained in enforcing the relevant policies and dealing with complaints arising from Internet misuse?
- Are there adequate systems in place to protect patient confidentiality?
- Do you have a clear procedure for dealing with complaints about on-line activity, such as cyber bullying?
- Do you have a clear whistle-blowing procedure to avoid concerned employees raising issues on-line?
- Are all relevant policies and procedures suitably publicised and circulated to all employees?

Summary

The Internet, email, and websites are likely to play an ever increasing role in modern optometry and optical practice and so, moving forward, it will become even more important that optical professionals and businesses are familiar with their responsibilities within the virtual setting. The risks associated with failing to do so are also increasing and to overlook them is knowingly to jeopardise finance, reputation, and registration.

Advice prepared by Nailah Mears of Berrymans Lace Mawer for the Optical Confederation.

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