

Consultation: Raising Concerns with the GOC (Whistleblowing) – response form

12 November 2015 – 21 January 2016

Response form

How to respond

The simplest way to provide a response is through our online consultation response form, which can be accessed here: <https://www.optical.org/en/get-involved/consultations/index.cfm>

If you are unable to submit your feedback online, then please use the form below to submit your written feedback by 21 January 2016.

This form should be emailed or posted to:

Philippa Mann
General Optical Council
10 Old Bailey
LONDON
EC4M 7NG
Email: pmann@optical.org

If you are unable to provide your response in writing or you require the consultation form in a different format, please contact us on 020 7307 8851 to discuss reasonable adjustments that would help you to respond.

Publication of consultation responses:

Unless you state otherwise we will assume you are happy for us to publish your response, including your name, and to share it with other appropriate bodies and stakeholders. We would however encourage named responses where possible and particularly from representative organisations so that we can reflect that the response is on behalf of members / stakeholders rather than an individual response.

Please tick here if you are only happy for us to share your responses anonymously:

Your name or the name of your organisation: Optical Confederation

Which category of respondent best describes you?

- Member of the public
- Optometrist
- Dispensing optician
- Student – optometry
- Student – dispensing
- Optical business
- Education or training provider
- Optical professional body

- Other optical employer
- Healthcare regulator
- Other (please specify below)

Questions

We have a number of structured questions below. You do not have to answer all of the questions when responding – please feel free to respond just to the questions you feel are relevant to you. There are opportunities within the document to provide your specific comments on both the framework for standards and the standards themselves.

Section 1: Our Policy

1. Is the 'Raising Concerns to the GOC' policy (annex one) clear and accessible?

- Yes Yes, mostly No, only some parts No, not at all

Please give your reasons below:

It is welcome that the GOC rightly plans to limit investigations to areas where it has jurisdiction under its core functions.

2. Is there anything missing, incorrect or unclear in the policy?

- Yes No

If yes, please explain:

A few points:

- 1) Point 2 in the executive summary should make clear that protected disclosures are made about 'alleged or suspected wrongdoing', as wrongdoing must be proven through an investigation.
- 2) For clarity, 5.4 should state that the list of advice and support organisations can be found at the end of Annex 1, or these should be placed into a separate Annex. The list here should also include the representative bodies within the optical sector: ABDO, AOP and FODO.
- 3) We suggest adding a point 9.2.3 to the effect of: 'refer to a case examiner or the GOC Investigation Committee;'

3. What barriers might prevent or deter you from raising your concerns to the GOC (as set out in section five of the policy)?

As a Confederation we strongly support the principles of 'Learning not Blaming' (i.e. openness, honesty and candour; finding and facing the truth; learning from failures; apologising when things go wrong) and in our view regulatory action should be a last resort, except in the most serious cases.

The GOC may be a 'prescribed person' under Protected Interest Disclosure Act (PIDA 1998), however this will not be understood by most individuals and the GOC remains the sector's judicial regulator. As such, making a disclosure to the GOC is a serious matter and this may act as a barrier to some non-registrant and registrant individuals seeking to raise a concern. This could have the perverse effect of limiting disclosures which might still benefit from investigation, resolution and sharing of learning.

As also recognised in the executive summary (point 8), there may be many concerns that while not serious enough to warrant disclosure to the regulator, or which fall outside its remit, would nonetheless merit investigation, resolution and sharing of learning within the optical sector. We are pleased therefore to see that the GOC is committed to referring such concerns to an appropriate organisation for resolution where possible. However, we feel that the GOC could and should more proactively direct individuals to alternative routes for raising such concerns and seeking resolution in the first instance.

The list at the end of Annex 1 is useful in this regard. However, aside from OCCS, the bodies listed are external to the sector whereas in most cases these concerns can best be dealt with by the optical sector itself. Whistleblowing is not new; the optical professional and representative bodies have played a major role in this regard over the years and will continue to do so.

It would therefore be helpful for this policy to make this alternative option for raising a concern clear, for instance by adding to point 6: 'The optical professional and representative bodies can also be approached for advice if an individual is unsure what action to take or how best to raise a concern.' Similarly, we suggest that 11.2 read: 'We recommend that workers seek advice *either from an Optical Confederation representative body or independently* before making a decision of this kind...'

Finally, offering only 'commercial and educational organisations' (1.4) or 'employer and educational bodies' as examples (i.e. 2.2 and 3.1) potentially limits workers' understanding of the places where wrong doing could occur, which include for example hospitals, GP practices and voluntary sector providers. This may act as a barrier to making a disclosure. It might be both simpler and clearer to use a broader term such as 'organisations' (as in 5.1).

4. Does the policy make it clear how a worker should raise a concern (as set out in sections six and seven of the policy)?

Yes No

If no, please explain:

However, it might be helpful to include more examples. For instance 6.1 might highlight that not only are there a variety of options for disclosure but that in some organisations these follow a hierarchy, such as from line manager and clinical supervisor, to regional manager and then superintendent optometrist. Many large organisations will also have their own whistleblowing policies which individuals may wish to follow, and Quality in Optometry has a model policy suitable for both small and medium sized optical businesses.

Again the guidance should also highlight that optical professional and representative bodies can provide advice and support for workers considering raising a concern as above. This could be especially important for workers in a small practice, where the size of the business makes it difficult to raise concerns within the line management structure, and where workers do not wish to approach the GOC or bodies outside the sector.

5. Is the flowchart (in annex two of the policy) which shows how workers can raise a concern clear and accessible?

Yes No

If no, please explain:

The flowchart is admirably clear and well-designed. However it would be very helpful for potential whistleblowers if it included advice on what to do both in the first instance, before raising concerns with the regulator, and if concerns are not within the GOC's remit.

To those ends we suggest:

Reporting level 2 should include examples of local external options for raising a concern, such as the optical professional and representative bodies and the local NHS Freedom to Speak Up Guardian (accessible via the local CCG).

Reporting level 3 should similarly signpost to the optical professional and representative bodies as an alternative route for raising concerns externally.

6. Does the policy make it clear how we will consider concerns raised with us (as set out in sections eight and nine, and in the flowchart in annex 3)?

Yes No

If no, please explain:

However, where individuals may have concerns which do not fall within the remit of the GOC, these concerns can be best dealt with in the first instance by the optical sector rather than through external organisations. It is therefore important that the GOC clearly signpost alternative routes for raising and resolving concerns, such as optical professional and representative bodies, from the outset.

7. Do you have any comments on the approach to confidentiality and anonymity set out in section ten of the Policy?

This section is clear, however, as drafted it may not provide reassurance to a worker wishing to make an anonymous disclosure. Ideally, this section should also explain the ways that an investigation could proceed successfully if a disclosure were made anonymously.

Workers may also wish to know more about how their confidentiality and anonymity will be maintained and how they will be protected from repercussions if their disclosure is not made anonymously. This information is not included within the current policy. Clear information and assurance on this will be an important factor in an individual's decision to raise a concern.

8. Do you have any comments with regards to the elements we intend to report on (as set out in section 12)?

Yes No

If no, please explain:

It would be helpful to give further information about how and when it is proposed that lessons from whistleblowing investigations and the process itself will be shared.

To these ends we would suggest adding additional bullets to the list of reporting areas:

12.2.7 lessons for the optical sector

2.2.8 lessons for wider application

The GOC should also make clear in this section how it will respond to any concerns about how disclosures are handled.

Section 2: Impact

9. Overall, do you expect that the policy will be beneficial to, or have a positive impact on, the protection of the public?

Yes No

Please give your reasons below:

Neutral - The community optical sector poses very minimal risks, which are already adequately addressed by existing mechanisms. This policy is unlikely to add to this or have a significant impact on the protection of the public.

10. Are there any aspects of the policy that could have an adverse or negative impact on certain groups of workers or businesses?

Yes No

Please give your reasons below:

As noted above the GOC's status as the sector's judicial regulator may deter some individuals from disclosing concerns that should be referred for investigation and resolution. We hope therefore that the GOC will amend the policy, as suggested above, so that it clearly signposts workers to alternative options for support and resolution in the first instance (where we would expect that the majority of issues can and should be resolved) as well as when concerns fall outside the GOC's scope.

11. Are there any areas of the policy that could discriminate against people with specific characteristics, or be less accessible to people with specific characteristics? Please consider sex, age, race, religion or belief, disability, sexual orientation, gender reassignment, pregnancy or maternity, caring responsibilities or any other characteristics.

Yes No

Please give your reasons below:

Section 3: Additional Comments

12. Do you have any other comments that you wish to make on our policy on 'Raising Concerns'? Please specify below:

Many thanks for answering our consultation. Please kindly take a moment to complete our Diversity Monitoring form on the next page.

More about you

The GOC strives to be as diverse as the public it protects and welcomes consultation responses from everyone, regardless of age, disability, gender reassignment, race, religion or belief, ethnicity, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity. We monitor the diversity of all the individuals who respond to our consultations to ensure that we have heard from a diverse range of people and that we can identify where further engagement or consultation may be required. To help us to monitor this, please complete the following questions if you feel comfortable to do so. Providing this information is optional, but we would be grateful for your co-operation. Information provided will be treated in the strictest confidence under the Data Protection Act 1998 and will be only used for monitoring purposes.

No information in this section will be published or used in any way which allows any individuals to be identified.

Age

- 16-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65+
- Prefer not to say

Disability

Do you consider yourself disabled?

- Yes – please specify _____
- No
- Prefer not to say

[The Equality Act 2010 defines disability as a physical or mental impairment which has a substantial long-term effect on a person's ability to carry out normal day to day activities.]

Gender

- Female
- Male
- Prefer not to say

Gender Identity

My gender identity is **different** from the gender I was assigned at birth:

- Yes
- No

I describe my gender identity as _____

Sexual orientation

- Bisexual
- Heterosexual/Straight
- Gay/Lesbian/Homosexual
- Other
- Prefer not to say

Marital status

- Civil partnership
- Divorced/legally dissolved same-sex civil partnership
- Married
- Partner
- Separated
- Single
- Not stated
- Prefer not to say

Maternity leave

Are you pregnant, on maternity leave, or returning from maternity leave?

- Yes
- No
- Prefer not to say

Ethnicity / Race

White

- English / Welsh / Scottish / Northern Irish / British
- Irish
- Gypsy or Irish Traveller
- Any other white background – please specify _____

Mixed / multiple ethnic groups

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other mixed / multiple ethnic background – please specify _____

Asian / Asian British

- Indian
- Pakistani
- Bangladeshi
- Chinese
- Any other Asian background – please specify:

Black / African / Caribbean / Black British

- African
- Caribbean
- Any other Black / African / Caribbean background – please specify

Other ethnic group

- Arab
- Any other ethnic group – please specify _____
- Prefer not to say

Religion/Belief

- No religion
- Buddhist
- Christian
- Hindu
- Jewish
- Muslim
- Sikh
- Any other religion / faith – please specify _____
- Prefer not to say

Many thanks for completing this confidential monitoring form.