



Association of British
Dispensing Opticians



CHRE Consultation on Auditing the Initial Stages of the Healthcare Regulatory Bodies' Fitness to Practise Procedures

Together the Association of British Dispensing Opticians (ABDO), the Association of Optometrists (AOP) and the Federation of Ophthalmic & Dispensing Opticians (FODO) represent over 12,000 optometrists, over 5,600 dispensing opticians and optical businesses in the UK who provide high quality and accessible eye care services to the whole population.

We welcome the opportunity to comment on the proposed auditing of the initial stages of the healthcare regulatory bodies fitness to practise procedures. In particular, we note stakeholders are asked to comment on the 5 principles that underpin the processes; proportionality, accountability, consistency, transparency and targeting.

Having reviewed the proposals, overall we welcome the amendment to the National Health Service Reform and Health Care Professions Act 2002 allowing for the CHRE Council to audit regulators in respect of their fitness to practise procedures. However, it is disappointing that the proposals have been developed in consultation with patient groups and the 9 healthcare Regulators but did not include any of the Regulators' stakeholders. We believe that by including the stakeholders of the Regulators such as professional and representative bodies of the profession would have been helpful for all parties.

The CHRE Council have identified two key purposes of the new audit:-

- i to advise on quality of regulatory bodies processes and procedures
- ii to advise on the application of these processes; i.e. whether the right decisions are being made on these cases

We support the principles set out above in terms of both process and procedure. We are assuming that the key purpose of the "right decision" relates to both process and procedure and not a determination of the nature and facts of individual cases. If a key purpose of the audit is to determine the correctness of the decision in terms of nature and facts of the case we cannot support this as we believe this is a matter for the Regulators' committee who consider individual cases. We believe that such an approach would lack both accountability and transparency. We further consider that for a full audit we would suggest that the CHRE Council should also take into consideration the views of stakeholders who regularly interface with the regulator. We think this would provide a global picture of the Regulators' performance.

Key Principles

In the terms of proportionality we agree that it is very important that both the risk to the patient's safety and the size of the regulator should be taken into account. The consultation papers states "perceived risk". It is not clear from the document from whom the perspective of risk is perceived and presumably risk relates to a real risk rather than a theoretical one.

We welcome a key principle of consistency across the Regulators and agree where good practice is found this is shared with other Regulators.

We also agree that, whilst recognising the need for transparency, individual cases should be kept confidential. We believe this is particularly key for small Regulators as registrants could potentially be identified from case details.

A risk-based approach is also to be welcomed where it relates to process and procedure. We agree that the previous audits should also be considered and taken into account.

Approach

Legislative and Procedural Improvements

We welcome the fact that the CHRE Council will work with Regulatory Bodies to identify better ways of working and assist in legislative changes where necessary. However we believe that both these areas require the involvement of stakeholders of the professions. We suggest that legislative changes should be very carefully considered and consulted on widely before such an action is taken. It is the registrants who will bear the consequences of any ill-conceived legislation.

Confidentiality and Data Protection Act

We agree that individual case details should not form part of the audit report. We note that a Memorandum of Understanding is to be developed between the CHRE Council and the Regulators. We believe that this should be developed by each Regulator in full partnership with its stakeholders. We consider that development of an understanding should be transparent to all.

Reporting

We note the four stages to be adopted in reporting at the end of each audit. We are disappointed to see that there is no stage that includes the views of stakeholders and strongly recommend that these should be sought. It is also not clear from the document to whom a copy of the audit will be provided; we are of the view that a copy should be provided to stakeholders such as the professional bodies and representative bodies relevant to the Regulator in question.

Detailed audit process description

We broadly agree with the process that is to be adopted. However, the initial year of sampling appears to us to be disproportionate; for 100 cases to be audited for the large Regulators as well as the small does not appear proportional. Whilst we accept the

CHRE Council is attempting to adopt a consistent approach across all Regulators it is a fact that the Regulators are not all equal in the size of the professions regulated. We are concerned that for the large Regulators a risk-based approach in subsequent years may not be properly targeted due to the inadequacy of the initial audit sample size. It also appears unduly onerous for those smaller Regulators to have all of their cases audited.

In summary

We welcome the principles of the audit of process and procedure of the Regulatory bodies. However we remain concerned that the proposed audit process potentially allows the CHRE Council to “challenge” the decisions made by the Regulators’ committees by way of audit. It is clear from the document (reference paragraph 5.2.3) that individual case files will include analysis of nature and content of a particular decision. In assessing whether a decision protects patients safety along with looking at the facts of a case requires analysis of the issues of a particular case which in many cases may require consideration of clinical facts. This seems to go to the facts of a case not the process and procedure adopted. Further it is not clear from the documents who will undertake the audit on behalf of the CHRE Council. The consultation document sets out an audit process to assist the Regulator but we consider there is some lack of transparency of what precisely the audit is to consider.

We believe that proportionality, accountability, consistency and transparency are important values for regulatory bodies to adhere to and we welcome any process by which they are assisted and encouraged to embrace these principles.

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If you require any further information please contact;

Heather Marshall
Head of Public Affairs
AOP, ABDO, FODO
Direct line: 020 7202 8157
Email: heathermarshall@aop.org.uk