

CHRE: Project on common protocols for investigation and guidance to employers on referral to the national regulatory body

This is a joint response from the Association of British Dispensing Opticians (ABDO), Association of Optometrists (AOP) and the Federation of Ophthalmic & Dispensing Opticians (FODO).

Together our three organisations represent employed and independent optometrists, dispensing opticians, optical businesses and employers in the UK optical retail sector.

We have confined our responses to those questions that we feel are relevant to our members, the eye care providers working mainly in the community.

Our joint response is as follows:

1. Common protocols for investigation

(i) What tools and processes are currently available to employers (NHS and independent sector) to investigate concerns about health professionals?

RESPONSE

Optical services are provided by a combination of large bodies corporate (the major high street companies such as Specsavers and Boots), medium sized and regional companies and independent practices. What they have in common is that they all operate in a highly competitive commercial environment which provides powerful incentives to ensure quality to protect their brands, reputation and local standing.

They also all contract to provide General Ophthalmic Services to the NHS as part of their business.

It is against this background that optical contractors – as employers - take responsibility for the actions of those assisting in the performance of the contract and have their own internal quality assurance and disciplinary processes. Often these are more stringent than any external requirements would be. In addition the profession has invested heavily in clinical governance (with no support from government) and there is now an accepted industry-wide clinical governance framework and standards (based on the NHS's own *Standards for Better Health*). Additionally any concerns by patients can be raised with the PCT or with the General Optical Council who are the regulatory body. They both have far reaching disciplinary powers with immediate sanctions when public safety is a potential issue through Tribunals for PCTs and the Fitness to Practice process for the GOC.

(ii) How are decisions reached about which tool/process to use in any given situation?
(iii) What in your view are the strengths in the way that investigations are currently handled by employers?

(iv) What in your view are the weaknesses in the way that investigations are currently handled by employers?

(vi) What in your view are the causes of the weaknesses – are they to do with weaknesses in the process, are they to do with the capacity of employers to conduct investigations, or other reasons?

(vii) What issues are encountered by regulatory bodies when receiving a case which has been referred by an employer, having already been investigated?

(viii) Do you have any other comments, views or information which you think that CHRE should take into account when developing common protocols for investigations?

RESPONSE

There can be a knee-jerk tendency to set rules and protocols for a group of practitioners where the potential risk is high, say, doctors and dentists, then apply those same protocols to optometry and optics where the risks are considerably lower. It is therefore important that any arrangements governing investigations in this sector should be proportionate to what is relevant for these professions and the different relationship between employers and employees in this sector.

Our members operate as employers, or are employed in a normal commercial environment, in ways that are not analogous to the NHS. They have their own internal quality assurance, investigations procedures and reputations to protect and a contractual obligation to have a complaints system and to provide a transparent method of dealing with complaints. In addition the profession had pioneered an independent complaints service which is now managed by the GOC

We have no evidence of problems being encountered by our regulators from cases referred having previously been investigated by an employer. Indeed information and evidence from cases which have been investigated initially by employers can assist the regulator with much of the information needed already available.

However we have recently seen the Healthcare Commission inadvertently straying into the investigation of optometric cases where they do not have the skills or expertise to be able to investigate effectively. This can cause confusion and could potentially jeopardise any subsequent investigation by the General Optical Council.

Apart from that, the existing systems work well for patients, providers and practitioners which is why there are so few complaints, fitness to practise or employment tribunal cases in optics.

2. Guidance for employers on referring cases to the regulatory bodies

(i) What guidance is currently available to employers on when to refer a case to a regulatory body, or when a case should be dealt with locally?

(ii) How is any existing guidance made available to employers?

(iii) How do regulatory bodies determine whether a given case should be dealt with at national level or referred back to the employer?

(iv) How, in your view, should the threshold be defined at which a case should be dealt with by a regulatory body rather than the employer?

(v) Do you have any other comments, views or information which you think CHRE should take into account when developing guidance for employers on when to refer a case to a regulatory body?

RESPONSE

The General Optical Council produces Codes of Conduct for both the individual registrant and for Bodies Corporate. These assist an employer in forming a view as to whether the matter should be dealt with locally or at a national level. The codes are available on the GOC website. The GOC is also a willing provider of both formal and informal information and advice to employers and individual registrants.

Optometrists are contractors to the NHS and although they provide services generally from their own premises, any NHS complaint would be seen and considered by the PCT. Where there are serious concerns about a practitioner there is the facility for the employer or PCT to refer the matter to the Regulator.

There is no provision within the GOC rules to refer a matter back to the employer to resolve although this might be helpful in certain cases. However it would be very difficult to define a threshold, each case would need to be considered on its merits and much would depend on the resources available to any employer to deal with any issues raised.

Optometry is a very low risk profession and any arrangements need to be proportionate to the risks and take full account of the commercial environment within which they operate. Given the diversity of employers in the optometric sector, coupled with the procedures that already exist, we think protocols would have limited application and have not been shown to be necessary or helpful. The risks in this profession are not analogous to those in the medical profession.

In short we believe the current system in optometry works well and would be resistant to any further bureaucratisation of processes that currently work efficiently and well for all parties.