



Association of British  
Dispensing Opticians



ASSOCIATION OF  
OPTOMETRISTS



THE COLLEGE OF OPTOMETRISTS



Federation of Ophthalmic  
and Dispensing Opticians

24 April, 2009

## **GOC CONSULTATION ON PROPOSED AMENDMENTS TO THE CODE OF CONDUCT**

Together ABDO, AOP, the College and 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.

In 2003 all the optical bodies welcomed the principle of GOC Codes of Conduct for registrants.

The ABDO, AOP and the College of Optometrists representing dispensing opticians and optometrists sent a joint letter to the GOC stating this but recommending that such a code should be concise, limit itself to principles rather than the detail of professional conduct, and should cover within such principles every aspect of professional behaviour, albeit in the broadest terms. The signatories to the letter felt strongly that it is the role of the professional and representative bodies to support their members by providing detailed advice and guidance.

At the same time FODO (representing enrolled bodies corporate), through the GOC Companies Committee, recommended that the proposed Code for Business Registrants should follow the same principles of concision and focus on principles of conduct rather than detail (on the grounds it was better to have a Code that was clear, readily readable, understood and complied with, rather than a volume of indigestible detail). Companies Committee also took the view that the Code for Business Registrants should as far as possible mirror and support the Code for Individual Registrants, many of whom are employees. In fact it was Companies Committee which drafted the version of the Code for Business Registrants.

The College's Membership and Standards Committee includes agenda items for which external bodies are invited to consider any changes to the College's guidance. At the meeting of the Committee held on 18 February 2009 it was agreed that the optical bodies would submit a joint response to the consultation on proposed amendments to the GOC Code of Conduct.

At the FODO Board meeting on 7 January 2009, helpfully attended by Jon Levett and Grahame Tinsley, it had been agreed by the GOC that such a joint response would be counted as five separate responses in the consultation analysis.

### **CODE FOR INDIVIDUAL REGISTRANTS**

#### **1 Clarify the purpose of the Code**

Q Do you agree that the proposed additional words help clarify what the Code is for, who it applies to, and the consequences of registrants not complying with it?

### **Response**

We do not agree that the word 'expected' should be changed to 'required'. Optometrists, contact lens opticians and dispensing opticians will use their clinical judgement as to what is best for each patient, acting within the law and in accordance with the guidance of their professional bodies. This being the case, it is appropriate for a Code of Conduct to set out a framework for the behaviour expected (rather than 'required') of a professional.

The same point applies to the Code for Business Registrants. They will apply their professional judgement to both clinical and management issues and be happy to be held to account for their judgements.

## **2 Student and Trainee Registrants**

Q Do you agree that the Code should be amended to make explicit reference to persons undertaking training as optometrists and dispensing opticians?

### **Response**

We are content with the amendments making specific reference to persons undertaking training, but believe that there is a difference in legal terms between an undergraduate student and an employed trainee. We do not agree that students and trainees should be referred to generically as 'trainees'.

## **3 Insurance**

Q Do you agree that the Code should be amended to state that registrants must have adequate and appropriate insurance?

### **Response**

We agree in principle with the wording but recommend that the GOC consults with providers of professional insurance to ensure that there is no scope for misunderstanding at registrant, PCT or Health Board level, for instance in relation to insurance arrangements for employees who are covered by their employers' scheme, or students and trainees who are covered by their supervisor's insurance. There should not be a need for employees, students and trainees to have to purchase extra unnecessary cover unless they wish to.

## **4 Providing information about fitness to practise concerns**

Q Do you agree that the Code should make it explicit that registrants must report information to the GOC and other relevant organisations about themselves or other health professionals or organisations, where this information may mean that they are not able to practise safely or effectively or be trusted to act legally?

No.

Q Do you agree that the Code should make it explicit that registrants must co-operate with any investigation or formal inquiry about their, or others', fitness to practise, fitness to undertake training as an optometrist or dispensing optician, or fitness to carry on business as an optometrist or dispensing optician?

No.

**Response**

We have a number of concerns about these proposals. In the consultation document it is claimed that the GOC is aware of cases where patients have been put at risk but not reported. We would like to know the source of the information about these cases, if they have not been reported, and in particular whether they are isolated anecdotes or whether there is evidence of a real problem, in which case the GOC really must provide a great deal more information about the nature and size of the problem so that consultees can judge whether the GOC's proposals are proportionate (cf the GOC's recently published Consultation Framework).

In natural justice professionals should make their own professional judgements in cases of enquires and be accountable for them, eg. before a FTP panel if necessary. The GOC already has powers to call for papers, summon witnesses etc; and in terms of natural justice this should suffice. The optical bodies would welcome any hard evidence of a problem here which needs to be remedied. We have certainly not experienced any problems with co-operation with investigations.

**5 Personal conduct**

Q Do you agree that the Code should make it clear that registrants must ensure that their personal conduct, as well as their professional conduct, does not damage public confidence in them or their profession?

Yes.

Q Do you agree that examples of criminal offences or police cautions, including serious physical, sexual and racial behaviour that may put a person's registration at risk should be referred to in the Code?

No.

**Response**

Although the law does not allow for previous offences or cautions to be spent in relation to health workers, we do think that some proportionality is needed here. Many young people receive police cautions for pranks that are not intended to cause harm, and any references in the Code should be framed in such a way that common sense will prevail. It is, for example, unlikely that 'serious' physical, sexual and racial behaviour would result in a caution. Our responses are therefore yes to Question 1 and no to Question 2.

**6 Promotional activity**

Q Do you agree that the Code should include a clause requiring registrants to ensure that all promotional activity is accurate and honest and that advertising or publicity complies with appropriate advertising codes of practice?

**Response**

No; this is already well covered in other legislation. Moreover in respect of the GOS, there is already a further requirement in the new contracts in England (and in due course elsewhere) which explicitly prohibit misrepresentation. We would prefer the principle of “regulate once and clearly”.

**7 Patient consent**

Q Do you agree that the Code should highlight the guidance issued by the professional bodies on the issue of patient consent?

**Response**

Yes. This is a complex area and practitioners and businesses need to know where to find guidance. We feel that it would be helpful to highlight the guidance of the professional bodies.

**8 Equality and diversity**

Q Do you agree that the Code should make it clear that registrants have a duty to show respect to all people irrespective of their gender, race, age, disability, religion, belief or sexual orientation?

**Response**

Yes. Further to the open question posed at the Stakeholder Event on 16 April, we would be opposed to more detailed definitions, as proposed by some interest groups, as these would inevitably lead to inadvertent exclusions by default.

Q Do any of the GOC’s proposals to amend the Code, or any of the existing provisions in the Code, unfairly discriminate, directly or indirectly, against individuals because of their gender, race, age, disability, religion, belief or sexual orientation.

No.

Q Are there any other ways in which the Code could be amended to further promote equality and diversity?

**Response**

No. We believe the proposals are admirably clear and concise.

## 9 Acting within one's professional competence

Q Do you agree that the code should make it clear that registrants are required to act within the limits of their competence?

### **Response**

**We believe that registrants are aware of this requirement, which is embodied in guidance and reinforced in training at all levels. A reference is not therefore needed in the Code.**

## CODE FOR BUSINESS REGISTRANTS

### 10 Proposed New Clause 11

#### **Response**

FODO, AOP and ABDO, which also represent business registrants, have concerns about the proposed new clause 11 in the Code for Business Registrants. Although we understand what is intended here, we can easily see how it could be misused. For example, this could become a charter for the disgruntled and dismissed to bring frivolous cases against their ex-partners/employers, eg. with PCTs. If there is a genuine case to answer, the FTP process already provides an appropriate system for dealing with this, including weighing the evidence properly, which all the optical bodies support. We could see such a new clause becoming a nightmare when interpreted at PCT level.

Again we would also query whether the GOC has any evidence to demonstrate why such a change is necessary. As noted, the clause is already in the Code for Individual Registrants; and under the Code for Business Registrants, companies are already required not knowingly to do anything which might contribute to, or cause, a breach by practitioners of the Code for Individual Registrants. For the reason outlined, above we cannot therefore see the need for this new proposal (other than for drafting neatness).

We would therefore suggest the clause is removed from this version of the Code and that FODO, AOP, ABDO and the GOC – either through the Investigation and Companies Committee or otherwise - jointly monitor the situation to see whether such a clause is necessary, how it might best be framed (to avoid the problems above) and then, with our support, for the GOC to amend the Code when necessary.

### 11 Wider Comments

We note that other regulators are also currently consulting on their own codes and new procedures etc; and we would suggest they have put forward some proposals which might, in our view, also be helpful to the regulation of optometry and optics.

As publicising the Codes in whatever form will inevitably generate more complaints, (of which many are likely to be trivial but which will nevertheless incur costs for the GOC and hence registrants), we would suggest the GOC actively considers as part of this review

- Introducing a fair and transparent screening of complaints
- taking a power in a Section 60 Order for the Registrar to be able to dismiss frivolous complaints
- introducing a system of “undertakings” for minor infringements which are capable of being, or have already been, remedied.

Finally, we would like to congratulate the GOC on the way this consultation process has been handled, in particular the openness of engagement, sensible timescales and willingness to listen and consider what is appropriate and proportionate for our sector. We hope this approach will be equally reflected in the Working Group and Standards Committee in the next phase of this work.

The optical bodies, and our members, stand ready to assist in that process in any way we can.