

## Codes of Conduct

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For decision

### Introduction:

1. In 2005, the Council issued the Code of Conduct for Individual Registrants and the Code of Conduct for Business Registrants. The Council agreed, as part of the 2008-9 and 2009-10 business plans, that a review should be undertaken of these Codes to ensure that the principles within them continued to be relevant, up to date, and reflect best regulatory practice.

2. Under the Allocation of Roles and Responsibilities, the Standards Committee is charged by Council with providing advice to it on the need for provision, or revision, of guidance to individual registrants and business registrants on the standards of conduct and performance expected of them. As such, the Standards Committee has overseen the review of the Codes.

3. In April 2008, the Standards Committee established a working group consisting of optometrist, dispensing optician, lay and business registrant members to undertake a detailed review of the Codes – see **Annex 1** for the working group membership. The Working Group met 4 times between 2 April 2008 and 28 May 2009. The Council's Companies Committee also provided feedback, particularly with regard to any proposals to amend the Code of Conduct for Business Registrants, and the business registrant member of the Working Party was a Companies Committee representative.

4. In November 2008, on the recommendation of the Standards Committee, the Council approved for consultation a document outlining a number of proposals as to how the Codes might be amended. The consultation document can be found at the following link:

[http://www.optical.org/goc/filemanager/root/site\\_assets/consultation\\_documents/code\\_s\\_of\\_conducts\\_consultation\\_-\\_final.pdf](http://www.optical.org/goc/filemanager/root/site_assets/consultation_documents/code_s_of_conducts_consultation_-_final.pdf).

5. A three month consultation was undertaken from January to April 2009, which included a stakeholder event held in London on 16 April 2009.

6. The Working Group reconvened after the consultation had closed to consider the responses and reported to Standards Committee and Companies Committee. An analysis of the consultation responses and the Working Group's views on the responses is attached - **Annex 2**. The Working Group recommended a number of amendments to the Codes which were considered by Standards Committee on 17 September and Companies Committee on 14 October. A few further minor amendments were made to the documents on the recommendation of Standards Committee and Companies Committee. Both Standards Committee and Companies Committee recommend to the Council that the amendments outlined below are made to the Codes of Conduct.

7. Should Council approve the changes, revised versions of the Codes will be distributed to all registrants early in the New Year and placed on the GOC's website. It is proposed that the new versions come into force on 1 April 2010 to allow time for registrants to familiarise themselves with the changes.

## Discussion

### *Code of Conduct for Individual Registrants*

#### *(i) Stylistic changes*

8. It is recommended that the Code is amended such that registrants are referred to throughout the document using the term 'you'. This is in-line with the style adopted in the codes of conduct and similar documents by most other regulatory bodies.

#### *(ii) Clarifying the purpose of the Code*

9. It is recommended that the following amendments (in bold) are made to the introduction to the Code to further clarify what the Code is for, who it applies to, and the consequences of registrants not complying with it:

*This document describes principles of good practice in professional conduct and standards and sets out the framework of conduct ~~expected~~ **required** in all aspects of professional work. The principles are linked to the values which have been agreed by healthcare professionals to be common to ~~each~~ **all** professions. **All registrants must act in accordance with the principles set out in this Code.** Failure to comply with the duties and responsibilities set out in the Code ~~may~~ **will** put **your** registration at risk.*

*The GOC recognises that other bodies have issued detailed guidance with regard to matters covered in this Code. You are expected to **comply with relevant local and national standards on clinical governance** and be familiar with the relevant guidance and advice issued by other organisations and, in particular, that of the professional and representative bodies.*

#### *(iii) Student and trainee registrants*

10. It is recommended that the Code is amended to make it clear that all student registrants must adhere to the principles set out in the Code. It is recommended that the phrase used to refer to student registrants should be 'those undertaking training as optometrists or dispensing opticians' which reflects the phraseology used in the Opticians Act 1989.

#### *(iv) Insurance*

11. It is recommended that a new clause is added to the Code requiring that all registrants:

**be covered by adequate and appropriate insurance for practice in the UK throughout the period of your registration.**

Whilst this is a requirement under section 10A of the Opticians Act 1989, this does not apply to registrants from other European Economic Area states providing services in the UK on a temporary and occasional basis. However, such registrants are obliged to adhere to the Code of Conduct. Hence placing a clause in the Code would ensure that such registrants were also required to have adequate and appropriate insurance whilst practising in the UK.

*(v) Providing information about fitness to practise concerns*

12. It is recommended that the Code is amended to make clearer that registrants have an obligation to report any concerns they have about themselves, or a colleague, or a business registrant, that they may not be fit to practise, fit to undertake training, or fit to carry on business. It was recognised that not all such concerns needed to be directly reported to the GOC, and that resolution at a local level was often appropriate. Therefore, it is proposed that the following amendments are made to the Code:

*act quickly to protect patients from risk where there is good reason to believe that ~~he or she~~ **you**, or a colleague, may not be fit to practise, **fit to undertake training, or in the case of a business registrant fit to carry on business as an optometrist, dispensing optician or both***

New explanatory footnote:

***If you have important information about yourself, other health professionals or organisations, which may mean that you, or they, lack the skills, knowledge, character or health to practise safely and effectively, or be trusted to act legally, you must act quickly to protect patients. In the first instance you should normally report your concern to your employer, manager or other appropriate person at your practice or business level. However if there is no such person and the matter cannot be addressed at practice or business level, your concern should be reported to the local primary care organisation.***

***However, you should inform the GOC if:***

- ***Taking action at a local level would not be practical***
- ***Action at a local level has failed***
- ***The problem is so serious that the GOC clearly needs to be involved***
- ***There is fear of victimisation or a cover up.***

***You must let the GOC know straight away if you:***

- ***Have been convicted of a criminal offence, convicted of a criminal offence resulting in a conditional discharge;***
- ***Have accepted a police caution;***
- ***Have been disciplined by any organisation responsible for regulating or licensing a health or social care professional;***
- ***Are barred from working with children and/or vulnerable adults;***
- ***Have been suspended or placed under a practice restriction by an employer or similar organisation because of concerns about your fitness to practise;***
- ***Have a health condition which a reasonable person would think may impair your fitness to practise.***

***This list is not exhaustive.***

***You should co-operate with any investigation or formal inquiry about your, or another health professional's, fitness to practise, fitness to undertake training as an optometrist or dispensing optician, or the fitness of a business registrant to carry on business as an optometrist, dispensing optician, or both.***

*(vi) Personal Conduct*

13. It is recommended that an additional clause is added to the Code to make it clearer that it is not merely inappropriate conduct in a person's professional life which may put their registration at risk, but also their personal conduct whilst not practising. An additional new clause is proposed as follows:

***ensure your conduct, whether or not connected to your professional practice, does not damage public confidence in you or your profession.***

*(vii) Patient Consent*

14. It is recommended that additional words are added to the Code to make it clear that registrants need to be aware of and comply with guidance on the issue of patient consent. It is proposed that the following words are added (highlighted in bold):

*Give patients information in a way they can understand and make them aware of the options available; **on the issue of patient consent, be aware of and comply with the guidance published by the professional bodies.***

*(viii) Equality and Diversity*

15. It is proposed that a simple amendment is made to the Code to make it clear that registrants should show respect for all people. The consultation document had proposed that gender, race, age, disability, religion, belief, and sexual orientation be listed in the Code. However, this was rejected by the Working Group after the consultation. The consultation had led to some respondents making a number of suggestions regarding additional areas to be covered in the list, and it was felt that such a list could prove unwieldy. It was pointed out that the Code already forbids registrants from discriminating unfairly against patients or colleagues. Therefore, it is proposed that the following amendment is made to the Code:

*To justify that trust, you have a duty to maintain a good standard of practice and care and to show respect for all ~~aspects of human life~~ **people**.*

*(ix) Acting within one's professional competence*

16. The Code currently requires registrants to recognise the limits of their professional competence. Whilst it is implied that registrants must therefore act within the limits of their competence, this is not clearly stated. It is recommended that the following simple amendment is made to the Code:

*Recognise, **and act within**, the limits of your professional competence.*

17. A consolidated version of the Code of Conduct for Individual Registrants, incorporating the above changes, can be found at **Annex 3**.

*Code of Conduct for Business Registrants*

*(x) Clarifying the purpose of the code*

18. As with the Code of Conduct for Individual Registrants, it is recommended that some additional words are added to the introduction to the Code of Conduct for Business Registrants to clarify further what the code is for, who it applies to, how it

should be used and the consequences of registrants not complying with it. It is proposed that the following words are added:

*This document describes principles of good practice in professional conduct and standards and sets out a framework of conduct expected of ~~business registrants~~ **all bodies corporate carrying on business as an optometrist, or a dispensing optician or both. All business registrants must act in accordance with the principles set out in this Code. Failure to comply with the duties and responsibilities set out in the Code will put registration at risk.***

19. It is further proposed that a definition of 'body corporate' is given to make it clear what kinds of optical business can be business registrants, and hence to whom the Code applies.

New footnote:

**A body corporate includes limited companies (public and private), limited liability partnerships and, in Scotland, partnerships. Other kinds of business such as partnerships in England, Northern Ireland and Wales and sole traders are not bodies corporate and cannot register as business registrants with the GOC.**

(xi) *Clinical governance*

20. The introduction to the Code already emphasises the role of business registrants in maintaining and enhancing standards in clinical and corporate governance. The introduction also makes it clear that business registrants are expected to be aware of the guidance of other organisations, in particular the professional and representative bodies. It is particularly important for business registrants to be aware of and comply with any national or local standards and guidance relating to clinical governance. Indeed, meeting such standards will underpin the ability of individual registrants to practise safely and effectively, and will assist in the effective identification and reporting of concerns about health professionals where problems occurs, and minimise the risks to patients. Hence, it is proposed that the following words are added to the introduction to the Code:

*The GOC expects business registrants to be aware of relevant guidance and advice issued by other organisations and in particular that of professional and representative bodies **and to comply with relevant local and national standards on clinical governance.***

(xii) *Providing information about fitness to practise concerns*

21. As with the Code of Conduct for Individual Registrants, it is recommended that the Code of Conduct for Business Registrants is amended to make it clearer that business registrants also have an obligation to report any concerns they have about the fitness to practise, to undertake training, or to carry on business of themselves or colleagues. It is therefore proposed that the following amendments are made:

*[A business registrant will take reasonable and proportionate steps to] protect patients if it has reason to believe that an individual registrant **or other health professional, may not be fit to practise, fit to undertake training, or if a business registrant fit to carry on business as an optometrist, dispensing optician, or both***

New footnote:

***If a business registrant has important information about themselves, other health professionals or organisations, which may mean that they lack the skills, knowledge, character or health to practise safely and effectively, or be trusted to act legally, they must act quickly to protect patients. In the first instance this would normally be by taking action through the internal management structure of the business or where appropriate to the local primary care organisation.***

***However, business registrants should inform the GOC if:***

- ***Taking action at a local level would not be practical***
- ***Action at a local level has failed***
- ***The problem is so serious that the GOC clearly needs to be involved***
- ***There is fear of victimisation or a cover up.***

***Business registrants should co-operate with any investigation or formal inquiry about an individual registrant's, or another health professional's, fitness to practise, fitness to undertake training as an optometrist or dispensing optician, or the fitness of a business registrant to carry on business as an optometrist, dispensing optician, or both.***

*(xiii) Financial and commercial practices*

22. It is recommended that a new clause is added to the Code of Conduct for Business Registrants regarding financial and commercial practices to align it with the Code for Individual Registrants. It is proposed that the following clause is added:

***ensure that financial and commercial practices do not compromise patient safety.***

23. A consolidated version of the Code of Conduct for Business Registrants, incorporating all the above changes, can be found at **Annex 4**.

#### **Recommendation(s):**

24. Council is recommended to approve the amendments to the Code of Conduct for Individual Registrants and Code of Conduct for Business Registrants as set out above.

#### **Resource implications:**

25. Should Council approve the above changes, revised versions of the Code will be distributed to all registrants in the New Year. Resources to cover printing and distribution have been included in the 2009-10 budget.

#### **Equality and diversity implications:**

*Has an Equality and Diversity Impact Assessment been carried out?*

26. Yes. An amendment to the Code of Conduct for Individual registrants to show respect for all people will further support Equality and Diversity.

#### **Human Rights Act implications:**

*Has a Human Act Rights Impact Assessment been carried out?*

27. Yes. No issues were identified that would engage or interfere with the Convention rights and freedoms.

**Stakeholder engagement:**

*Has the Consultation Checklist been completed?*

28. Consultation on these proposals pre-dated the Council's adoption of the consultation framework. However, the consultation document was distributed to a wide range of stakeholder groups across the UK and placed on the GOC website. Presentations on the proposals were offered to key stakeholders. The written consultation received a good range of responses from individual registrants, patient groups, optical bodies, and other regulators. A stakeholder event was held in London in April 2009 which was well attended by both registrant and patient representatives. The event focussed on those issues which had generated most comment in the written responses. Further discussion was held with the optical bodies on the proposals prior to their consideration by Standards Committee and Companies Committee.