

GOC Guidance for Witnesses in Fitness to Practise Committee Hearings

About us

The GOC regulates opticians and optical businesses in the UK. There are currently around 26,000 optometrists, dispensing opticians, student opticians and optical businesses on our register.

What we do

We protect the public by:

- setting standards for optical education, training, performance and behaviour
- approving the qualifications that lead to registration
- publishing a register of opticians, students and optical businesses in the UK; and
- investigating and acting on concerns that a registrant is not fit to:
 - practise,
 - train as an optician, or
 - run a GOC-registered business.

More information about the complaints process can be found in our booklet 'How to complain about an optician' which can be found on our website at:

http://www.optical.org/en/Investigating_complaints/How_to_make_a_complaint/index.cfm

The purpose of this guidance document

The purpose of this guidance is to explain what happens if you are asked by the General Optical Council (GOC) to be a witness at a hearing before a panel of the Fitness to Practise Committee.

Some witnesses are not asked to give evidence by the GOC but by the optician who is the subject of the hearing (or by the optician's lawyer). If you have been asked to be a witness by the optician or their lawyer, some of the information in this guidance will not be relevant, and any questions you have about being a witness should be dealt with by the optician (or their lawyer). However we hope that some of the information in the section below about "what happens at the hearing" will be helpful to you.

Some useful definitions

"Optician" refers to any individual or business registered with the GOC. Individual optometrists or dispensing opticians must be registered with the GOC before beginning to practise. In addition, the GOC regulates student optometrists and student dispensing opticians who must be registered with the GOC in order to undertake training.

An "optometrist" is the person who tests your sight.

A "dispensing optician" is the person who fits and supplies your glasses or contact lenses.

Optometrists and dispensing opticians are often referred to using the term "optician". Individuals who are registered with us are often referred to using the term "registrant".

"Fitness to practise" refers to:

- the fitness to practise of qualified optometrists or dispensing opticians
- the fitness to undertake training of student optometrists or dispensing opticians

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- the fitness to undertake business of business registrants (optical businesses that are registered with the GOC).

What is fitness to practise?

If a registrant is described as 'fit to practise', it means they meet the standards of health, character, knowledge, skill and behaviour necessary for them to do their job safely and effectively.

"Your GOC contact" will be a member of staff from one of the solicitors' firms that does legal work for us. Your secondary point of contact will be a member of the GOC fitness to practise team. We work together with our solicitors to prepare a case for hearing.

Why has the GOC asked me to give evidence?

Witnesses who give evidence at hearings of the Fitness to Practise Committee play an essential role in assisting the GOC to carry out its regulatory role. Further information about the role of the GOC (including the case examiners, Investigation and Fitness to Practise Committees) is provided on our website at:

http://www.optical.org/en/Investigating_complaints/How_to_make_a_complaint/index.cfm

When a complaint is made about an optician, the GOC will investigate that complaint, before the case examiners or the Investigation Committee consider what action should be taken. As part of that investigation, your GOC contact may ask you questions about the events that are relevant to the complaint that has been made.

If the case examiners or the Investigation Committee decide that the complaint needs to be dealt with by the Fitness to Practise Committee at a formal hearing, it is likely that your GOC contact will ask you to sign a formal witness statement.

Unless the optician involved in the complaint accepts that what is said in your witness statement is true, it is likely that you will need to attend the Fitness to Practise Committee hearing to give evidence.

WHAT DOES THIS MEAN FOR YOU?

Before the hearing

Setting the hearing date

If you are a witness who has been asked to give evidence by the GOC, your GOC contact will ask you about dates when you would be available to attend the hearing. Where possible we will try to make sure that the hearing is held on a date that is convenient for you. However this is not always possible, because there are a lot of people involved in most hearings and it can be difficult to find a date that is convenient for everyone.

Once the hearing date has been set, we try to avoid changing it as that inconveniences everyone involved, including you. **Please help us with this by:**

- **avoiding making other appointments on any date that you have said you would be available to attend a hearing, where possible; and**
- **updating your GOC contact as soon as possible about any unavoidable changes to the**

dates on which you would be available.

Your GOC contact will let you know as soon as the hearing date has been set, and will provide you with any information you need about travelling to the hearing and claiming expenses. If you need an overnight stay we will book your hotel accommodation for you. We will usually ask you to make your own travel arrangements although we will reimburse your reasonable travel expenses provided you let us have any receipts.

Your GOC contact will also ask you whether at the hearing you will wish to take a religious oath or to affirm the truth of the evidence that you will give. If you will wish to take the oath you will need to tell us which religious text you wish to swear upon. The following texts are available:

- Christian (on the New Testament)
- Hindu (on the Gita)
- Jew (on the Old Testament)
- Muslim (on the Koran)
- Sikh (on the Gutka)

If you are of a different faith to the ones shown above, you should declare as such to your GOC contact in order that an appropriate text may be obtained.

If you have been asked to give evidence by the optician (or their lawyer), they will be responsible for contacting you about the arrangements for the hearing.

Witness summonses

Sometimes the GOC serves a Court summons on a witness, which means that if the witness then does not attend the hearing, legal action may be taken. The GOC is only likely to serve a Court summons on you if either you are not willing to attend the hearing, or you are having difficulties getting time off work to attend the hearing.

Help that is available for those with disabilities/in need of other support

If you have a disability, communication difficulties or other needs, please discuss this with your GOC contact (or if you have been asked to give evidence by the optician, with them or their lawyer) as soon as possible, so that we can make appropriate assistance available to you on the day of the hearing (for example, arrange for a sign language interpreter to attend or, if you are visually impaired, arrange for written information to be made available in a different format).

If you have a disability, illness or a condition such as a mental health problem, a learning disability, a physical disability or you experience difficulty in social situations, this may affect how you give evidence.

The way in which you give evidence may also be affected if you are the victim of a complaint about sexual matters, or if you feel intimidated due to your age, gender, race, cultural background or sexuality.

If you have any concerns about giving evidence at the hearing for one of these reasons or for any other reason, please alert your GOC contact (or if you have been asked to give evidence by the optician, with them or their lawyer) to this as soon as possible. They will discuss the situation with you, and will let you know if there is any way that we can help you to give your evidence.

We understand that being a witness can be a stressful experience. If you feel that you need more help or advice, you may want to speak to someone who is independent of the GOC. One organisation you may wish to approach for advice is WITNESS, who can be contacted at:

<http://www.popan.org.uk>

If you would like to visit the GOC before you come to give evidence then please let your GOC contact know. We will show you the hearing room and talk you through the hearings process.

WHAT HAPPENS AT THE HEARING?

Where are hearings held?

In most cases, the hearing will take place at a venue in London. Your GOC contact (or if you have been asked to give evidence by the optician, the optician or their lawyer) will tell you, in good time, exactly where the hearing is going to be held and what time you should arrive, when they confirm the date of the hearing. Please make sure that you leave yourself plenty of time to travel to the hearing.

If you are a witness who has been asked to give evidence by the GOC and you arrive at the venue before the hearing starts, the GOC's lawyer will introduce themselves to you and answer any questions you may have. If you arrive after the hearing has started, you may not have a chance to speak to the GOC's lawyer before you are asked to give your evidence.

Who will be at the hearing?

Fitness to Practise Committee members

There are usually five Committee members on the panel at the hearing, including two opticians and at least two lay people (i.e. people who are not opticians). Their role is to hear the evidence and make decisions. The Chair of the panel is always a lay person.

The Legal Adviser

An independent senior lawyer, whose role is to provide legal advice to the Committee and assist the Chair in making sure that the hearing is conducted fairly. The Legal Adviser does not play any role in the Committee's decision-making.

The GOC's lawyer

The GOC's lawyer is responsible for presenting the evidence that the GOC has gathered about the complaint. He or she will be the first person to ask you questions when you give evidence. If you have been asked to give evidence by the GOC, this person may also be your GOC contact.

The optician(s)

The complaint may involve one or more opticians. Some opticians choose to attend their hearing, and some choose not to attend. If an optician does attend the hearing, they may say nothing at all,

or they may give evidence to the Committee.

Sometimes opticians do not use lawyers to represent them at the hearing. In that event it is the optician who will be presenting their evidence to the Committee and asking the witnesses questions. There are some circumstances in which the optician will not be allowed to ask you questions directly, for example if the complaint is that you have been the victim of sexual misconduct by the optician.

If you have any concerns about the possibility that it may be the optician who asks you questions when you are giving evidence, please discuss this with your GOC contact at an early stage.

The optician's lawyer

If the optician instructs a lawyer to represent them, that person will present the optician's case to the Committee. They will also be the person asking the witnesses questions on the optician's behalf.

The transcriber

The GOC arrange for a transcriber to take notes of the hearing so that we have a full record of what was said.

The Hearings Manager

The GOC's Hearings Manager attends every hearing to provide administrative support to the Committee. The Hearings Manager is not involved in the Committee's decision-making.

Observers

Most hearings are held in public, which means that there may be members of the press or members of the public there.

Waiting to give evidence

Witnesses are not allowed to go into the hearing room until it is time for them to give evidence. This is to make sure that their evidence is not influenced by anything that is said by anyone else. On the day of the hearing you will be asked to wait until it is time for you to give evidence - either in a separate meeting room, or outside the hearing room itself. Your GOC contact will have sent you a copy of your witness statement, and you may wish to bring it with you and read it through to refresh your memory before you give evidence.

It is very important that you do not talk about the case with any other witnesses before you have given your evidence.

We try to make sure that hearings run on time, but sometimes delays occur as a result of unexpected problems once the hearing starts (for example sometimes legal arguments have to be dealt with before witnesses can be called to give evidence). It is therefore possible that you may have to wait some time before you give evidence. On some occasions we have to ask witnesses to come back on a different day.

If you have been asked to give evidence by the GOC, the GOC lawyer/your GOC contact will keep you updated about the hearing timetable on the day.

We recommend that you bring something to read, your laptop or tablet. The venue will usually have wireless internet access which will be available to you. You may find that you have to wait before you are called to give evidence. We will try and give you as much detail about timings as we can but

please bear with us.

If you would like us to arrange food and refreshments for you, then please tell your GOC contact at least three days before you are due to attend the hearing so we can place an order for you. If we arrange food for you, then you will not have to pay for this. The package we will arrange for you will include:

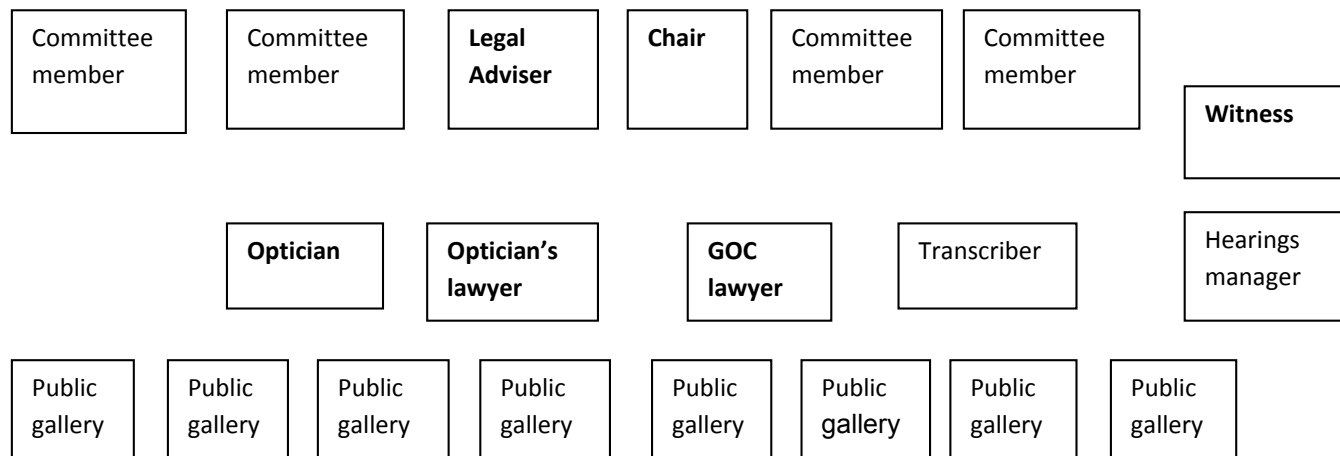
- tea, coffee, biscuits, water
- selection of sandwiches and ciabattas, fruit platter, crisps, water or fruit juice (orange or apple).

Please let us know if you have any food intolerances or allergies.

There are a variety of nearby places at which to buy food and refreshments. These include Oxford Street, Marylebone High Street, Cavendish Square and Great Portland Street. Please keep your receipts and refer to the GOC's expenses policy about what you can claim back. The lunch break can vary from 30 to 60 minutes.

Hearing room layout

The room in which the hearing is held is usually laid out in the way set out below:



What happens when you give evidence?

When it is your turn to give evidence the Hearings Manager will collect you from the waiting area/meeting room and take you to the hearing room. You will be asked to stand behind the witness table while you either take the oath or affirm the truth of the evidence that you are going to give as mentioned earlier. You will then be asked to sit down. The Chair of the Committee will usually introduce the Committee members so that you know who each of them is.

If you have been asked to give evidence by the GOC, the GOC's lawyer will then ask you to state your name and address before giving your evidence. The questions they ask you will usually be based on the witness statement you have made, although sometimes it is necessary to ask questions about additional matters. Once they have finished asking you questions, the optician's lawyer will then have an opportunity to ask you questions or challenge what you have already said (this is called cross-examination). The Committee themselves (or their Legal Adviser) may also ask you some questions. Finally, the GOC's lawyer or the optician's lawyer may ask you some further questions (although this is not always necessary). If you have been asked to give evidence by the optician, the

process is the same, except that the first person to ask you questions will be the optician's lawyer (and they will also have an opportunity to ask you any questions at the end).

Please make sure that when you are giving evidence you speak clearly and slowly so that everyone can hear you and that you answer the question that you have been asked.

If you are not sure that you understand a question, then ask for it to be repeated or made clearer for you. If you do not know the answer to a question, you should say so. If you are asked a question about a document, the person asking you the question will usually show you a copy of that document. Make sure that you take as much time as you need to read the document before answering the question.

Adjournments

We try to make sure that there is enough time for you to finish giving your evidence on the same day. However sometimes it is necessary for that day's hearing to end (or "adjourn") before you have finished giving your evidence (each day's hearing usually ends by 5pm). That could happen if the optician's lawyer or the Committee have a lot more questions for you than we expected, or if you were only able to start giving evidence late in the day. If that happens, your GOC contact will liaise with you about when you will have to come back to finish giving your evidence.

Until you finish giving your evidence you remain "under oath" - which means that you must not discuss the case or your evidence with anyone (whether they are involved in the hearing or not).

What happens after you have given evidence?

After you have answered everyone's questions you will usually be free to leave the hearing. If you choose to leave the hearing you must not discuss your evidence (including the questions you were asked) with any other witnesses who are still waiting to give evidence.

If you wish to stay to observe the rest of the hearing you should take a seat in the public gallery at the back of the hearing room (shown on the diagram above). Please note that the GOC will not be able to reimburse you for any extra costs you might incur as a result of choosing to stay to observe the rest of the hearing (for example if staying to observe means that you miss your train home).

The Committee's decision

The Committee will ask everyone except the Legal Adviser to leave the hearing room when they are ready to begin the process of making a decision. The Committee's decision-making process is divided up into several stages, so they may ask everyone to leave the room on several different occasions before the end of the hearing.

WHAT HAPPENS AFTER THE HEARING?

The outcome of the hearing

If you are a witness who was asked to give evidence by the GOC, your GOC contact will let you know the Committee's decision. If you have not heard from your GOC contact within two weeks of the hearing, please contact them for an update. It is possible that the hearing may not have finished.

What action can the Fitness to Practise Committee take?

Information about the Fitness to Practise Committee's hearings is available from the "Our Work" section of <http://www.optical.org>

If the Fitness to Practise Committee decides that an optician is not fit to practise, they can take one of the following actions:

Order the optician's removal from the GOC register

This is sometimes referred to as "erasure" or "striking-off". The optician's name is removed from the GOC's register (once the period in which they can appeal the order for removal). That means that they can no longer practise/train/run a GOC-registered business.

There is a separate process for considering applications for restoration to one of the GOC's registers by individuals whose names have been removed from the GOC registers as the result of a Fitness to Practise Committee hearing. Details can be found from the "Our Work" section of <http://www.optical.org>

Suspend the optician's name from the register

This means that the optician's name will be temporarily removed from the register (for a period of up to 12 months), and they will not be able to practise/train until the suspension period has ended.

Impose conditions on the optician's registration

This means that the optician will only be able to continue practising (during the period set by the Fitness to Practise Committee – a maximum of three years) if they comply with conditions that the Fitness to Practise Committee sets (such conditions may include a requirement to do specific training or only working under supervision). The Fitness to Practise Committee will review the optician's compliance with the conditions at regular intervals.

Impose a financial penalty

The Fitness to Practise Committee can impose a fine of up to £50,000 on an optician.

If the Fitness to Practise Committee decides that an optician's fitness to practise is **not** impaired the Committee may decide to give the optician a warning about their future behaviour or performance.

The Committee's decisions can be accessed from the "Our Work" section of our website at: <http://www.optical.org>

Payment of expenses

Witnesses who have been asked to give evidence by the GOC are able to re-claim their reasonable expenses. We have a separate expenses policy that explains what types of expenses can be claimed from the GOC and what you have to do to make a claim. Your GOC contact will send you a copy of this before the hearing.