

Contents

1. Statement
2. Purpose
3. Scope
4. How hearings on the papers fits in to the current fitness to practise process
5. Eligibility criteria
6. Suitability factors
7. Procedure for hearings on the papers
8. Determination of the Fitness to Practise Committee (FTPC)
9. Compliance
10. Appeal
11. Transparency

1. Statement

- 1.1 As the UK regulator for the optical sector, we are committed to protecting the public, maintaining high ethical standards and taking all concerns raised with us seriously. We are committed to taking a proportionate and fair approach when investigating and acting on concerns about the fitness to practise of those who we regulate.
- 1.2 Hearings on the papers is a case management tool that will be used to identify and process cases that may be suitable for concluding and progressing without the need for the attendance of parties.
- 1.3 The Opticians Act 1989 sets out, at section 1(2A), that the over-arching objective of the GOC in exercising its functions is the protection of the public. We will not seek to conduct a case on the papers unless we are satisfied that to do so will not adversely affect public protection or be detrimental to the wider public interest.
- 1.4 Utilising hearings on the papers as a way to manage cases has a number of benefits:
 - a. It avoids the need for hearing parties to attend hearings when there is not a change in circumstances.
 - b. It gives the GOC the flexibility to adapt its process to individual case circumstances.
 - c. It is a proportionate means of protecting the public.
 - d. It is more cost effective to hold than a live hearing.
 - e. It results in fewer live hearings, making hearing panel members available for other contested hearings and new interim order hearings.

Guidance for hearings on the papers

2. Purpose

2.1 The purpose of hearings on the papers is to allow us to continue to meet our over-arching objective of protection of the public in the most cost-effective way.

3. Scope

3.1 The policy will apply to registrants who are the subject of a fitness to practise investigation. Please see sections 5 and 6 for further details about the eligibility criteria and suitability factors applied to determine if a case is suitable to be considered on the papers.

4. How hearings on the papers fits in to the current fitness to practise process

4.1 The GOC's legislation clearly sets out who has authority to make decisions about fitness to practise cases. Where a case is managed by way of hearings on the papers, the decisions at the hearings still rest with the FTPC.

4.2 Hearings on the papers will only be considered in cases where the attendance of hearing parties is not necessary. Once an interim order has been granted or a review of a substantive order has been ordered, the GOC's case progression team will assess whether the case is eligible to be considered on the papers. The criteria applied in this assessment is set out in section 5 below. If a case is eligible to be considered, we will go on to consider whether the case is suitable to be heard on the papers. The factors that are taken into account when making the assessment are set out in section 6 below. If the GOC's case progression team consider that the factors set out in sections 5 and 6 are met then they will notify the hearings team to schedule the matter.

4.3 It is also open to the registrant to request a hearing on the papers if they consider that the factors in sections 5 and 6 are met. This request should be made to the GOC's hearings team who will facilitate discussions between both parties.

4.4 The decision to hear a case on the papers can be made at any stage between the interim or substantive order being made and the hearing date. If one review was held at a live hearing (with the attendance of the parties) there is no rule to suggest that the next review will also be held at a live hearing. An assessment will be made after each review hearing by the case progression team.

Guidance for hearings on the papers

- 4.5 It is open to the registrant (when referring to registrant we are also referring to the registrant's representative) to request that a matter is dealt with at a live hearing. If a live hearing is requested by the registrant, then it will automatically take place in person. If neither party request a live hearing the hearings team will make arrangements for the matter to be heard on the papers.
- 4.6 In cases where the matter will be conducted on the papers, the FTPC will still determine the case. The FTPC will meet with the presence of a legal adviser and hearings officer (and a clinical adviser if necessary and relevant) to decide on the matter. It is anticipated that the FTPC will not require further information from the parties. A determination will be made, and it will be published on the website in accordance with the GOC's disclosure policy.

5. Eligibility criteria

- 5.1 Not all cases are eligible for a hearing on the papers.
- 5.2 A hearing on the papers will be eligible but not limited to:
- a. An interim order review.
 - b. A substantive order review.
 - c. A procedural event.
- 5.3 A case will be ineligible for a hearing on the papers if:
- a. It is a restoration hearing.
 - b. It is an initial interim order application.
 - c. The matter is contested.
- 5.4 It may be appropriate to hold a hearing on the papers if the registrant has disengaged with the proceedings and it is considered by the GOC that there is no change in circumstances. If the GOC is applying for a change to an order then it must be heard at a live hearing.

6. Suitability factors

- 6.1 The overriding considerations that determine whether a case is suitable for a hearing on the papers will be the protection of the public and the public interest. A hearing on the papers will only be considered if the GOC is satisfied that the management of the case in this way will adequately protect the public. In addition, if in the particular circumstances of the case, a hearing on the papers will not address the wider public interest in there being a contested public hearing, it will not be pursued.

Guidance for hearings on the papers

6.2 Factors taken into account when determining whether the case should be conducted on the papers include (but are not limited to):

- a. **Whether the registrant agrees with the position of the GOC:** For example, if the registrant agrees that a suspension order should be continued then the case may be suitable to be dealt with on the papers.
- b. **Whether the registrant or representative plans to attend the hearing:** If the registrant or their representative do not intend to attend the hearing then it may be more suitable for the matter to be dealt with on the papers.
- c. **How complex the case is:** If the evidence is complex or not easily understood, it may be beneficial to hold a live hearing so that the FTPC can ask supplementary questions on matters.
- d. **Whether the FTPC requires live evidence:** If the hearing requires certain conditions to be met and no evidence has yet been presented then it may be more appropriate to hold a live hearing. If, however, the registrant is not engaging with the process and no useful purpose would be served then it may be more appropriate to conduct on the papers after the FTPC has decided on service and proceeding in absence.
- e. **Whether or not the case raises a public interest that requires a live hearing:** There may be a public interest in holding a live hearing in order to maintain public confidence in the professions and the GOC as a regulator. For example, a case with heavy press interest may be less suitable to be conducted with on the papers. Please note that all interim order hearings are private so this factor will hold less weight for interim order review hearings.
- f. **Whether the interests of the registrant require the matter to be dealt with at a live hearing:** There may be issues in the case that mean a live hearing should be held to make sure the process is fair to the registrant.

7. Procedure for hearings on the papers

7.1 This process will be conducted in line with the relevant Rules for each hearing type.

7.2 If the case progression team decide that the case is suitable to be conducted with on the papers, the scheduling officer will write to the registrant and his or her representative to inform them of this accompanied with the notice of hearing, proposed bundle and statement of facts. The notice document will set out a listing window to hear the matter on the papers and a live hearing date should the matter not be resolved on the papers. Rules around the submission of documents will also be included.

7.3 The registrant will then have 28 days to respond if they object to the case being conducted on the papers. The registrant must serve their papers within 28 days if they agree to holding the hearing on the papers. If it is objected to, the live hearing date contained in the notice document will take effect.

Guidance for hearings on the papers

- 7.4 The registrant is also permitted to raise any objections to the content of the GOC's bundle and/or its statement of facts, for example if it contains inaccuracies. This will not necessarily mean that a hearing on the papers is not appropriate.
- 7.5 If a registrant contacts the GOC before the listing window objecting to the hearing on the papers, the live hearing date contained in the notice document will take effect.
- 7.6 Alternatively, the FTPC at the hearing on the papers may consider that it would be helpful to hold a live hearing and give the registrant the opportunity to attend. If the FTPC directs this, the live hearing date contained in the notice will take effect.
- 7.7 Initial interim order applications will always be held at a live hearing as this will provide the registrant with the opportunity to attend.
- 7.8 For any subsequent reviews of interim orders (which have mandatory review periods), the GOC will consider whether there has been a material change in the circumstances that requires a live hearing [see suitability factors above]. Where there has been no material change in the risk, the GOC will request that the matter is dealt with on the papers and inform the registrant of the outcome.

8. Determination of the Fitness to Practise Committee

- 8.1 Hearings on the papers will take place in private before a full panel of the FTPC with a legal adviser and hearings officer (and a clinical adviser if necessary and relevant).
- 8.2 The hearings officer will provide the FTPC with the service bundle in order for the FTPC to consider whether the hearing is taking place in accordance with the Rules.
- 8.3 The FTPC will also be provided with the following documents:
- a. GOC bundle including statement of facts/skeleton argument
 - b. Registrant's representations (if provided)
- 8.4 Hearing parties will not be invited to attend a hearing on the papers so the decision will need to be made purely on the papers. If the FTPC consider that they cannot make their decision on the case without the live submissions of the parties or supplementary evidence, the hearing must be discontinued, and the live hearing date set out in the notice document will take effect.

Guidance for hearings on the papers

8.5 The FTPC will write up its determination giving full reasons for its findings. This process will be the same as the process for live hearings.

8.6 The hearings officer will send the full determination to the registrant, the registrant's representative and the GOC. The determination (or summary) will then be published on the website.

9. Compliance

9.1 If you are concerned that the policy is not being adhered to, please contact the scheduling officer who is managing your case in the first instance stating that you have a concern about how the policy is being applied. Your concern will be addressed via our corporate complaints policy which can be found here:

https://www.optical.org/en/Investigating_complaints/index.cfm

9.2 The management of the case will be reviewed in light of the concerns you have raised. If it is found that the policy is not being adhered to, action will be taken to ensure that the policy is followed.

10. Appeal

10.1 The decisions taken by the FTPC are reviewed by the Professional Standards Authority (minus interim orders). They are the organisation that oversees the work of the GOC. They can ask the high court to review a decision if they decide that it is insufficient to protect the public.

11. Transparency

11.1 The publication of information for cases managed under this policy is the same as for all fitness to practise cases. The disclosure of fitness to practise case information is covered within the disclosure policy at section 4. The disclosure policy forms part of the information governance handbook, which can be found here:

https://www.optical.org/en/about_us/data-and-information/index.cfm