

## **Declarations guidance for bodies corporate**

**How we consider information that applicants or registrants declare.**

**November 2013**



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## Who is this document for?

This document is intended to provide guidance for the following groups of people:

- Those applying to the General Optical Council (GOC) for registration, or considering the making of an application ('an applicant'); and
- Those who are currently registered with the GOC, who are making an application for retention of registration ('a registrant').

The document will also be used by the Registrar, staff in the GOC's Registration team, members of GOC Council and Committees (including the Registration Appeals Committee) and any other person who wishes to understand the principles and processes by which applications with declarations are considered.

## About this document

To help you find the information you need, we have separated this document into **five** sections. There are different sections for applicants and registrants.

Sometimes we have repeated the same information in more than one section; this is to ensure that we provide all of the relevant information for those reading different parts of the document.

In general terms, we have separated the document into the following sections:

- Section one, the **introduction**, contains information about us and our role in regulating the optical professions. This section is for everyone;
- Section two, **information for those applying to join the GOC register**, is aimed at businesses that must join the register in order to carry on business;
- Section three, **information for those applying to restore to the GOC register**, relates to businesses that wish to return to the register of bodies corporate, after a period of non-registration;
- Section four, **information for those applying for retention on the GOC register**, relates to businesses that are currently registered with the GOC and which must renew their registration on an annual basis; and
- Section five, **how we consider information that we receive**, explains the process that the GOC will undertake when considering a declaration that has been made. This section is aimed at both applicants and registrants.

## Section one: introduction

The GOC is one of 13 organisations in the UK known as health and social care regulators. These organisations oversee the health and social care professions by regulating individual professionals.

We are the regulator for the optical professions in the UK. We currently register around 26,000 optometrists, dispensing opticians, student opticians and optical businesses.

The GOC has four primary functions:

- Setting standards for optical education and training, performance and conduct;
- Approving qualifications leading to registration;
- Maintaining a register of those who are qualified and fit to practise, train or carry on business as optometrists and dispensing opticians; and
- Investigating and acting where registrants' fitness to practise, train or carry on business is impaired.

The GOC has a responsibility to ensure that only those on our register can use a 'protected title', such as optometrist or dispensing optician. Anyone using a protected title and who is not registered with us is breaking the law and could be prosecuted.

### **The GOC register**

The GOC register is available on our website at [www.optical.org](http://www.optical.org). Anyone can search it to check that their optician is registered. The register contains various pieces of information about individuals and businesses registered with us, including:

- Their GOC registration number;
- Their type of registration (whether they are an optometrist, dispensing optician, student or body corporate);
- The qualifications they have listed with the GOC (including their primary qualification that allows them entry onto the register, where applicable); and
- If they are subject to any fitness to practise outcomes such as suspension or conditional registration.

## Section two: information for those applying to join the GOC register

This section provides information on the application process and the information that you need to provide to us so that we can decide whether to allow your entry onto the register. More information about the registration process, including registration forms and how our fees are structured, can be found on our website at:

[http://www.optical.org/en/our\\_work/Registration/index.cfm](http://www.optical.org/en/our_work/Registration/index.cfm)

### Business applicants

Any body corporate that wishes to carry on business as an optometrist or dispensing optician in the UK, and use a protected title in their business or trading name, must be registered with the GOC. More information about the requirements for business registration can be found on our website at:

[http://www.optical.org/en/our\\_work/Registration/Applying\\_for\\_registration/Bodies\\_corporate.cfm](http://www.optical.org/en/our_work/Registration/Applying_for_registration/Bodies_corporate.cfm)

In order for the GOC to register your body corporate you must complete an application for registration. As part of this application you will be required to provide us with information including:

- The names and addresses of where you practise, as well as a contact address and the registered address of your business (where appropriate);
- Details relating to how your business meets one of the requirements for registration as body corporate: for example, the names of all of the directors of your company, and their GOC registration numbers where appropriate; and
- A **declaration** from you that the company is fit to carry on business, or information about criminal or disciplinary investigations relating to the company or its directors, which we will need to consider before allowing your registration. This is discussed in more detail below.

All of the information that we ask from you is to help us ensure that:

- You are who you say you are;
- You meet the requirements for registration with the GOC as a body corporate;
- You meet our standards for fitness to carry on business; and
- We have your contact details.

### Declaration of fitness to carry on business

Section 9 of the Opticians Act 1989 (as amended) states that “a body corporate shall be entitled to be registered in the register if it satisfies the Council that it is fit to carry on business as an optometrist or a dispensing optician or to carry on both businesses”.

Part eight of the GOC (Registration) Rules 2005 state that applicants for registration as a body corporate shall make a declaration regarding disciplinary or criminal investigations, or outcomes, on behalf of the business or any of its directors.

It is your responsibility, as the applicant, to provide us with any information in relation to these areas. If you do not do so, and it later comes to our attention, this may mean that we will take action in relation to your registration.

### **Declarations relating to criminal or disciplinary investigations or outcomes**

Applicants are required to declare the following on behalf of the company and its directors:

- a. Any conviction (including conviction by court martial) or caution received in the British Islands for a criminal offence, or a conviction elsewhere which, if committed in England or Wales, would constitute a criminal offence;
- b. If they have accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);
- c. If they agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- d. If they have been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging them absolutely;
- e. If they were the subject of a determination by a body in the United Kingdom responsible for the regulation of a health or social care profession to the effect that the body corporate's fitness to carry on business as a member of that profession is impaired, or the fitness of a director of the body corporate to practise that profession is impaired; and
- f. If they were the subject of a determination by a regulatory body outside the United Kingdom to the same effect.
- g. That they are currently the subject of any investigation or proceedings which might lead to any of results described at a-f above.

Taking each of these areas in turn, further explanation is provided below.

a-d: convictions, cautions and other penalties

You must declare on your application if the body corporate, or any of its directors, has ever received a conviction or a caution and, additionally, any of the outcomes relating to the Scottish courts as described above. The Rehabilitation of Offenders Act 1974 ("the Rehabilitation of Offenders Act") does not apply to people wishing to join the GOC register. This means that you must tell us about any conviction or caution that you have received, even if it is 'spent' under that Rehabilitation of Offenders Act, unless it is a 'protected' caution of conviction. If you do not inform us of these matters, and they come to our attention at a later date, you may be referred

to the GOC's Fitness to Practise Department and action could be taken against you that might affect your continuing registration.

A caution is protected from disclosure six years after it was accepted. If the offender was less than 18 years of age when the caution was accepted then that period is reduced to two years.

A conviction is protected from disclosure after 11 years. If the offender was less than 18 years of age when convicted then that period is reduced to five and a half years. However, in either case a conviction will only be protected from disclosure if the offender received a non-custodial sentence and has no other convictions.

A caution or conviction will not be protected from disclosure if it is for a 'listed offence' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Listed offences include, but are not limited to, serious violent and sexual offences which are of specific relevance to the safeguarding of children and vulnerable adults. A caution or conviction for a 'listed offence' must always be disclosed to the GOC.

Further guidance on listed offences may be found on the Disclosure of Barring Service website ([www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service)).

When making a declaration in relation to a conviction or caution, please provide as much information as possible. This will reduce the chances of us having to ask you for more information which may slow down the progress of your application.

If after reading this guidance you are unsure about whether you should make a declaration in relation to a conviction or caution you may wish to seek independent legal advice before deciding whether or not to make a declaration.

*e. a determination by a health or social care regulatory body*

You must also tell us if you, or any of your directors, have had a determination made against you by a health or social care regulatory body or a primary care organisation in the UK. The relevant bodies are as follows:

- General Chiropractic Council
- General Dental Council
- General Medical Council
- General Optical Council
- General Pharmaceutical Council
- Health and Care Professions Council
- Nursing and Midwifery Council

- General Osteopathic Council
- Pharmaceutical Society of Northern Ireland
- Primary care organisations or Health Boards

Additionally, you should tell us if you have had a determination made against you by one of the predecessor bodies to those above (for example, the General Social Care Council or Royal Pharmaceutical Society of Great Britain).

If you (or any of the directors) are or have ever been registered with a regulatory body and have received a sanction relating to your fitness to carry on business (or practise), or your fitness to carry on business (or practise) was found to be impaired, you must tell us about this. Additionally, if you have been subject to a sanction by an NHS primary care organisation (for example, a Primary Care Trust or Local Health Board), either as an employee or service provider, you must inform us of this. Also, if you, or any of your directors, have received a determination relating to your fitness to carry on business (or practise) from a regulatory body outside the UK, you must tell us about this.

When making a declaration in relation to a determination by a regulatory body, please provide as much information as possible, including the outcome or sanction imposed and the circumstances leading to the determination. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application. If you do not inform us of these matters, and they come to our attention later, we may decide to refer you to the GOC's Fitness to Practise team; they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration.

*f. current investigations by the police or regulatory body*

You must declare on your application if you, or any of your directors, are currently subject to an investigation by the police for an offence which may lead to a conviction or caution. If you are under investigation by a health or social care regulatory body (see the previous section), or a primary care organisation, you must also tell us about this.

If you, or any of your directors, are under investigation by a police force outside the UK, for an offence that would lead to a conviction in England or Wales, you must declare this. Also, if you are being investigated by a health or social care regulatory body outside the UK, you must also tell us of this.

When making a declaration in relation to current investigations please provide as much information as possible, including information about the circumstances leading to the investigation. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application.

In cases where we receive an application that includes a declaration about a current investigation, it is unlikely that this will prevent you from being registered. However, this will depend on the nature and seriousness of the allegations against you being investigated. If we do decide to register you, we will require you to inform us of the outcome of the investigation. If the outcome leads to you being given a sanction, or we have concerns about your fitness to carry on business, we may decide to refer you to the GOC's Fitness to Practise team (if you are registered at the time); they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration.

As with all information we request and hold about you, the GOC will be guided by the principles of the Data Protection Act 1998 that any data requested, held and processed by us is relevant and proportionate to the reasons that we have requested it.

### **Other information**

In addition to the declarations described above that you are required to make, any successful applicant must comply with the GOC Code of Conduct for business registrants [http://www.optical.org/en/Standards/Standards\\_in\\_conduct.cfm](http://www.optical.org/en/Standards/Standards_in_conduct.cfm) The Code describes how the GOC expects that those on our body corporate register should behave to ensure the safety and welfare of patients and the public. You should make your application with reference to the Code and declare any matters to the GOC on your application that may affect your fitness to carry on business. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application. If you do not inform us of these matters, and they come to our attention later, we may decide to refer you to the GOC's Fitness to Practise team; they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration.

## Section three: information for those applying to restore to the GOC register

This section provides information on the process for restoration to the GOC register and the information that you need to provide to us so that we can decide whether to allow your restoration.

More information about the restoration process, including restoration forms and how our fees are structured, can be found on our website at:

[http://www.optical.org/en/our\\_work/Registration/index.cfm](http://www.optical.org/en/our_work/Registration/index.cfm)

### Body corporate applicants

Anyone who wishes to carry on business as an optometrist or dispensing optician in the UK, and use a protected title in their business or trading name, must be registered with the GOC. If you have been previously registered as a body corporate with us and for any reason have allowed your registration to lapse, or we have removed you from the register, you must restore to the register to continue to carry on business as a body corporate.

In order for the GOC to register your body corporate, you must complete an application for registration. As part of this application you will be required to provide us with information including:

- The names and addresses of where you practise, as well as a contact address and the registered address of your business (where appropriate);
- Details relating to how your business meets one of the requirements for restoration as a body corporate: for example, the names of all of the directors of your company, and their GOC registration numbers where appropriate;
- A **declaration** from you that the company is fit to carry on business, or information about criminal or disciplinary investigations relating to the company or its directors, which we will need to consider before allowing your restoration. This is discussed in more detail below; and
- Information about why you were removed from the GOC register and whether you have carried out activities restricted to GOC registrants during your period of non-registration.

All of the information that we ask from you is to help us ensure that:

- You are who you say you are;
- You meet the requirements for registration with the GOC as a body corporate;
- You meet our standards for fitness to carry on business; and

- We have your contact details.

### **Declaration of fitness to carry on business**

Section 9 of the Opticians Act 1989 (as amended) states that “a body corporate shall be entitled to be registered in the register if it satisfies the Council that it is fit to carry on business as an optometrist or a dispensing optician or to carry on both businesses”.

Part eight of the GOC (Registration) Rules 2005 states that applicants for registration as a body corporate shall make a declaration regarding disciplinary or criminal investigations, or outcomes, on behalf of the business or any of its directors.

It is your responsibility, as the applicant, to provide us with any information in relation to these areas. If you do not do so, and it later comes to our attention, this may mean that we will take action in relation to your registration.

### **Declarations relating to criminal or disciplinary investigations or outcomes**

Applicants are required to declare the following, on behalf of the company and its directors:

- a. Any conviction (including conviction by court martial) or caution received in the British Islands for a criminal offence, or a conviction elsewhere which, if committed in England or Wales, would constitute a criminal offence;
- b. If they have accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);
- c. If they agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- d. If they have been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging them absolutely;
- e. If they were the subject of a determination by a body in the United Kingdom responsible for the regulation of a health or social care profession to the effect that the body corporate’s fitness to carry on business as a member of that profession is impaired, or the fitness of a director of the body corporate to practise that profession is impaired;
- f. If they were the subject of a determination by a regulatory body outside the United Kingdom to the same effect; and
- g. That they are currently the subject of any investigation or proceedings which might lead to any of results described at h-m above.

Taking each of these areas in turn, further explanation is provided below.

*a-d: convictions, cautions and other penalties*

You must declare on your application if the body corporate, or any of its directors, has ever received a conviction or a caution and, additionally, any of the outcomes relating to the Scottish courts as described above. The Rehabilitation of Offenders Act 1974 (“the Rehabilitation of Offenders Act”) does not apply to people wishing to join the GOC register. This means that you must tell us about any conviction or caution that you have received, even if it is ‘spent’ under that Rehabilitation of Offenders Act, unless it is a ‘protected’ caution or conviction. If you do not inform us of these matters, and they come to our attention at a later date, you may be referred to the GOC’s Fitness to Practise Department and action could be taken against you that might affect your continuing registration.

A caution is protected from disclosure six years after it was accepted. If the offender was less than 18 years of age when the caution was accepted then that period is reduced to two years.

A conviction is protected from disclosure after 11 years. If the offender was less than 18 years of age when convicted then that period is reduced to five and a half years. However, in either case a conviction will only be protected from disclosure if the offender received a non-custodial sentence and has no other convictions.

A caution or conviction will not be protected from disclosure if it is for a ‘listed offence’ under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Listed offences include, but are not limited to, serious violent and sexual offences which are of specific relevance to the safeguarding of children and vulnerable adults. A caution or conviction for a ‘listed offence’ must always be disclosed to the GOC.

Further guidance on listed offences may be found on the Disclosure of Barring Service website ([www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service)).

When making a declaration in relation to a conviction or caution, please provide as much information as possible. This will reduce the chances of us having to ask you for more information which may slow down the progress of your application.

If after reading this guidance you are unsure about whether you should make a declaration in relation to a conviction or caution you may wish to seek independent legal advice before deciding whether or not to make a declaration.

*e. a determination by a health or social care regulatory body*

You must also tell us if you, or any of your directors, have had a determination made against you by a health or social care regulatory body or a primary care organisation in the UK. The relevant bodies are as follows:

- General Chiropractic Council
- General Dental Council
- General Medical Council
- General Optical Council
- General Osteopathic Council
- General Pharmaceutical Council
- Health and Care Professions Council
- Nursing and Midwifery Council
- Pharmaceutical Society of Northern Ireland
- Primary care organisations or Health Boards

Additionally, you should tell us if you have had a determination made against you by one of the predecessor bodies to those above (for example, the General Social Care Council or Royal Pharmaceutical Society of Great Britain).

If you (or any of the directors) are or have ever been registered with a regulatory body and have received a sanction relating to your fitness to carry on business (or practise), or your fitness to carry on business (or practise) was found to be impaired, you must tell us about this. Additionally, if you have been subject to a sanction by an NHS primary care organisation (for example, a Primary Care Trust or Local Health Board), either as an employee or service provider, you must inform us of this. Also, if you, or any of your directors, have received a determination relating to your fitness to carry on business (or practise) from a regulatory body outside the UK, you must tell us about this.

When making a declaration in relation to a determination by a regulatory body, please provide as much information as possible, including the outcome or sanction imposed and the circumstances leading to the determination. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application. If you do not inform us of these matters, and they come to our attention later, we may decide to refer you to the GOC's Fitness to Practise team; they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your employer or professional body, or take your own legal advice, before deciding whether to make a declaration.

*f. current investigations by the police or regulatory body*

You must declare on your application if you, or any of your directors, are currently subject to an investigation by the police for an offence which may lead to a conviction or caution. If you are under investigation by a health or social care regulatory body (see the previous section), or a primary care organisation you must also tell us about this.

If you, or any of your directors, are under investigation by a police force outside the UK, for an offence that would lead to a conviction in England or Wales, you must declare this. Also, if you are being investigated by a health or social care regulatory body outside the UK, you must also tell us of this.

When making a declaration in relation to current investigations please provide as much information as possible, including information about the circumstances leading to the investigation. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application.

In cases where we receive an application that includes a declaration about a current investigation, it is unlikely that this will prevent you from being registered. However, this will depend on the nature and seriousness of the allegations being investigated against you. If we do decide to register you, we will require you to inform us of the outcome of the investigation. If the outcome leads to you being given a sanction, or we have concerns about your fitness to undertake training, we may decide to refer you to the GOC's Fitness to Practise team (if you are registered at the time); they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration.

As with all information we request and hold about you, the GOC will be guided by the principles of the Data Protection Act 1998 that any data requested, held and processed by us is relevant and proportionate to the reasons that we have requested it.

## Section four: information for those applying for retention on the GOC register

This section provides information on the process for renewing your registration with the GOC and the information that you need to provide to us so that we can decide whether to continue to allow your registration. More information about the registration process, including registration forms and how our fees are structured, can be found on our website at:

[http://www.optical.org/en/our\\_work/Registration/index.cfm](http://www.optical.org/en/our_work/Registration/index.cfm)

### Business applicants

Any body corporate that wishes to carry on business as an optometrist or dispensing optician in the UK, and use a protected title in their business or trading name, must be registered with the GOC. You are required to renew your registration with the GOC each year that you are in practice. We call this renewal process **retention**.

More information about the requirements for business registration can be found on our website at:

[http://www.optical.org/en/our\\_work/Registration/Applying\\_for\\_registration/Bodies\\_corporate.cfm](http://www.optical.org/en/our_work/Registration/Applying_for_registration/Bodies_corporate.cfm)

In order for the GOC to register your body corporate you must complete an application for retention. As part of this application you will be required to confirm to us that the information we hold about you is correct, and update any information where necessary. Confirmation information you will be asked to provide includes:

- The names and addresses of where you practise, as well as a contact address and the registered address of your business (where appropriate); and
- A **declaration** from you that the company is fit to carry on business, or information about criminal or disciplinary investigations relating to the company or its directors, which we will need to consider before allowing your registration. This is discussed in more detail below.

All of the information that we ask from you is to help us ensure that:

- You are who you say you are;
- You meet the requirements for registration with the GOC as body corporate;
- You meet our standards for fitness to carry on business; and

- We have your contact details.

The retention period for body corporate registrants is from the beginning of January to 31 March each year. You must make your application (and pay the retention fee) by 15 March each year, otherwise you will incur a late application fee. Information about GOC fees can be found on our website at:

[https://www.optical.org/en/our\\_work/Registration/index.cfm](https://www.optical.org/en/our_work/Registration/index.cfm)

You can complete your application for retention by logging on to the MyGOC area of the GOC website.

Further information about retention can also be found on our website at:

[https://www.optical.org/en/our\\_work/Registration/Renewing\\_your\\_registration/index.cfm](https://www.optical.org/en/our_work/Registration/Renewing_your_registration/index.cfm)

### **Declaration of fitness to carry on business**

Section 9 of the Opticians Act 1989 (as amended) states that “a body corporate shall be entitled to be registered in the register if it satisfies the Council that it is fit to carry on business as an optometrist or a dispensing optician, or to carry on both businesses”.

Part five (sections 17 to 20) of the GOC (Registration) Rules 2005 relate to the retention requirements. Rule 20 states that “The Registrar may remove a registrant’s name from the appropriate register if he is not satisfied that ... the registrant is entitled to be registered under section ...9.”

It is your responsibility, as the applicant, to provide us with any information in relation to these areas. If you do not do so, and it later comes to our attention, this may mean that we will take action in relation to your registration.

### **Declarations relating to criminal or disciplinary investigations or outcomes**

Applicants are required to declare the following, on behalf of the company and its directors:

- a. Any conviction (including conviction by court martial) or caution received in the British Islands for a criminal offence, or a conviction elsewhere which, if committed in England or Wales, would constitute a criminal offence;
- b. If they have accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);
- c. If they agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- d. If they have been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging them absolutely;

- e. If they were the subject of a determination by a body in the United Kingdom responsible for the regulation of a health or social care profession to the effect that the body corporate's fitness to carry on business as a member of that profession is impaired, or the fitness of a director of the body corporate to practise that profession is impaired;
- f. If they were the subject of a determination by a regulatory body outside the United Kingdom to the same effect; and
- g. That they are currently the subject of any investigation or proceedings which might lead to any of results described at a-f above.

Taking each of these areas in turn, further explanation is provided below.

*a-d: convictions, cautions and other penalties and orders*

You must declare on your application if the body corporate, or any of its directors, has ever received a conviction or a caution and, additionally, any of the outcomes relating to the Scottish courts as described above. The Rehabilitation of Offenders Act 1974 ("the Rehabilitation of Offenders Act") does not apply to people wishing to join the GOC register. This means that you must tell us about any conviction or caution that you have received, even if it is 'spent' under that Rehabilitation of Offenders Act, unless it is a 'protected' caution or conviction. If you do not inform us of these matters, and they come to our attention at a later date, you may be referred to the GOC's Fitness to Practise Department and action could be taken against you that might affect your continuing registration.

A caution is protected from disclosure six years after it was accepted. If the offender was less than 18 years of age when the caution was accepted then that period is reduced to two years.

A conviction is protected from disclosure after 11 years. If the offender was less than 18 years of age when convicted then that period is reduced to five and a half years. However, in either case a conviction will only be protected from disclosure if the offender received a non-custodial sentence and has no other convictions.

A caution or conviction will not be protected from disclosure if it is for a 'listed offence' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Listed offences include, but are not limited to, serious violent and sexual offences which are of specific relevance to the safeguarding of children and vulnerable adults. A caution or conviction for a 'listed offence' must always be disclosed to the GOC.

Further guidance on listed offences may be found on the Disclosure of Barring Service website ([www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service)).

When making a declaration in relation to a conviction or caution, please provide as much information as possible. This will reduce the chances of us having to ask you for more information which may slow down the progress of your application.

If after reading this guidance you are unsure about whether you should make a declaration in relation to a conviction or caution you may wish to seek independent legal advice before deciding whether or not to make a declaration.

*e. a determination by a health or social care regulatory body*

You must also tell us if you, or any of your directors, have had a determination made against you by a health or social care regulatory body or a primary care organisation in the UK. The relevant bodies are as follows:

- General Chiropractic Council
- General Dental Council
- General Medical Council
- General Optical Council
- General Osteopathic Council
- General Pharmaceutical Council
- Health and Care Professions Council
- Nursing and Midwifery Council
- Pharmaceutical Society of Northern Ireland
- Primary care organisations or Health Boards

Additionally, you should tell us if you have had a determination made against you by one of the predecessor bodies to those above (for example the General Social Care Council or Royal Pharmaceutical Society of Great Britain).

If you (or any of the directors) are or have ever been registered with a regulatory body and have received a sanction relating to your fitness to carry on business (or practise), or your fitness to carry on business (or practise) was found to be impaired, you must tell us about this. Additionally, if you have been subject to a sanction by an NHS primary care organisation (for example, a Primary Care Trust or Local Health Board), either as an employee or service provider, you must inform us of this. Also, if you, or any of your directors, have received a determination relating to your fitness to carry on business (or practise) from a regulatory body outside the UK, you must tell us about this.

When making a declaration in relation to a determination by a regulatory body, please provide as much information as possible, including the outcome or sanction imposed and the circumstances leading to the determination. Providing us with as

much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application. If you do not inform us of these matters, and they come to our attention later, we may decide to refer you to the GOC's Fitness to Practise team; they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If you have received a warning from the GOC's Investigation Committee you do not need to declare this when applying for retention.

If you have previously been subject to GOC fitness to practise proceedings, but the matter has been concluded, you do not need to declare this unless we have previously told you to do so.

You should make a declaration that might affect your fitness to practise at the time that it occurs. If it comes to your attention that you have failed to declare something to the GOC that you now believe that you should have declared, you should declare this at the next retention period. When making this declaration you should provide an explanation of the circumstances of the offence and also the reason that you previously failed to declare it.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration.

#### *f. current investigations by the police or regulatory body*

You must declare on your application if you, or any of your directors, are currently subject to an investigation by the police for an offence which may lead to a conviction or caution. If you are under investigation by a health or social care regulatory body (see the previous section), or a primary care organisation, you must also tell us about this.

If you, or any of your directors, are under investigation by a police force outside the UK, for an offence that may lead to a conviction in England or Wales, you must declare this. Also, if you are being investigated by a health or social care regulatory body outside the UK, you must also tell us of this.

When making a declaration in relation to current investigations, please provide as much information as possible, including information about the circumstances leading to the investigation. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application.

In cases where we receive an application that includes a declaration about a current investigation, it is unlikely that this will prevent you from being registered. However,

this will depend on the nature and seriousness of the allegations against you being investigated. If we do decide to register you, we will require you to inform us of the outcome of the investigation. If the outcome leads to you being given a sanction, or we have concerns about your fitness to carry on business, we may decide to refer you to the GOC's Fitness to Practise team; they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination, you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration

As with all of the information we request and hold about you, the GOC will be guided by the principles of the Data Protection Act 1998 that any data requested, held and processed by us is relevant and proportionate to the reasons that we have requested it.

### **Other information**

In addition to the declarations described above that you are required to make, any successful applicant must comply with the GOC Code of Conduct for business registrants

[http://www.optical.org/goc/filemanager/root/site\\_assets/publications/codes/codes\\_of\\_conduct\\_for\\_business\\_registrants.pdf](http://www.optical.org/goc/filemanager/root/site_assets/publications/codes/codes_of_conduct_for_business_registrants.pdf) The Code describes how the GOC expects that those on our body corporate register should behave, to ensure the safety and welfare of patients and the public. You should make your application with reference to the Code and declare any matters to the GOC on your application that may affect your fitness to carry on business. Providing us with as much information as early as possible will help to prevent us having to ask you for more information, which will slow down the progress of your application. If you do not inform us of these matters, and they come to our attention later, we may decide to refer you to the GOC's Fitness to Practise team; they will then consider whether we need to further investigate and take action that might affect your continuing registration.

If, after reading this guidance, you are still unsure about whether you should make a declaration in relation to a determination you should make the declaration. You may also wish to speak to your professional body, or take your own legal advice, before deciding whether to make a declaration.

## Section five: how we consider information that we receive

This section explains how we consider the information that you declare and the process we follow when reaching a decision. It also discusses what happens following the decisions we make. We have separated the section into an explanation of how we deal with declarations about criminal or disciplinary matters, or carrying on business while unregistered. As the process is similar for each type of declaration, some of the information in this section is repeated.

### **Information about criminal or disciplinary matters**

If you make a declaration to us that relates to criminal or disciplinary matters, we will usually ask you to provide further information about the nature of these investigations or outcomes. We may also ask you to provide us with any certificates of conviction or caution, up to date Criminal Records Bureau checks (or their equivalent), or copies of court transcripts. We may also ask for your consent to request information about you from investigating bodies, or ask you to provide us with this information. We may also request information from any other person or organisation if we believe that it is relevant to the declaration that you have made.

In addition to any information that we have requested from you, or an investigating body, we will ask you for any comments or representations you wish to make in relation to your declaration and whether you believe it affects your fitness to carry on business.

A member of the Registration team will ensure that all of the information that has been supplied to us in relation to the declaration is put before the Registrar, who will consider it within five working days.

The information provided to the Registrar will include:

- Applicant or registrant details (Name, reference number);
- Type of application (registration, restoration or retention);
- Date of receipt;
- Summary of all information provided by the applicant or registrant;
- List of all documentation provided by the applicant or registrant and any third parties;
- The section of the Opticians Act 1989 (as amended 2005) that provides the Registrar with the authority to make a decision on the application;

- Where applicable, details of any similar declarations received in the past and the decision made in these cases;
- A recommendation based on the information provided; and
- Copies of all received correspondence and documentation from the registrant/applicant and third parties.

The Registrar will decide whether to grant or refuse the application. When making this decision the Registrar will consider all of the information available and provide clear reasons for the decision that has been taken. When making a decision the Registrar will consider:

- The circumstances of the declaration as set out by the applicant;
- Any further information that has been provided by the applicant, or sought by the GOC; and
- Decisions taken in cases with similar circumstances (where relevant).

In the event that the Registrar does not follow the recommendation set out, he will provide clear reasons for doing so, in addition to his decision in relation to the application. The Registrar will take all reasonable steps to ensure that there is a consistent approach to decision-making. These steps will include a regular review of both the process undertaken and the decisions made by the Registrar, as well as an audit of those decisions on an annual basis.

The Registrar will not generally refuse an application simply on the basis that an investigation is on-going, but reserves the right to do so depending on the circumstances of an individual declaration. Very exceptionally, however, the Registrar will refuse an application where there is an investigation in progress. This is because the GOC's overriding duty is the protection of members of the public.

Accordingly, in a situation where a current GOC registrant may be suspended under section 13L of the Opticians Act 1989 (as amended) by way of an interim order, the Registrar may decide for the protection of the public, otherwise in the public interest, or in the interest of the registrant him/herself that the application for retention on the register should be refused.

You will be given the reasons for the Registrar's decision when we tell you the outcome of your application.

In the event that the Registrar grants an application and it later comes to our attention that a different decision should have been reached (for example, an investigation has concluded with an outcome that might affect your fitness to practise), the Registrar will refer the matter to the GOC's Fitness to Practise team. The applicant or registrant will be informed of this in writing. For further information on the Fitness to Practise department's procedure, please refer to: [http://www.optical.org/en/Investigating\\_complaints/index.cfm](http://www.optical.org/en/Investigating_complaints/index.cfm)

When we notify you of the outcome of the Registrar's consideration we may tell you that you do not need to declare the matter to us again. We may also advise you on any future steps you need to take in relation to this declaration and your registration. If you fail to follow this advice, this may affect your fitness to practise in the future. If you have declared that you are currently under investigation we will ask you to notify us of the outcome of the investigation as soon as you know it.

The decision of the Registrar is made in private and reasons for the decision are not published. However, there will be occasions where the consideration of an application by the Registrar becomes public knowledge. If this happens the GOC will release information in accordance with our disclosure policy and in compliance with the law in order to maintain public confidence in our regulatory activities.

### **Carrying on business while unregistered**

If you declare to us that you have carried on business whilst unregistered we will usually ask you to provide further information about the activities you have undertaken. We may also request information from any other person, or organisation, if we believe that it is relevant to the declaration that you have made.

In addition to any information that we have requested from you, or any other body, we will ask you for any comments or representations you wish to make in relation to your declaration and whether you believe it affects your fitness to carry on business.

A member of the Registration team will ensure that all of the information that has been supplied to us in relation to the declaration is put before the Registrar who will consider it within five working days.

The information provided to the Registrar will include:

- Applicant or registrant details (Name, reference number);
- Type of application (registration, restoration or retention);
- Date of receipt;
- Summary of all information provided by the applicant or registrant;
- List of all documentation provided by the applicant or registrant and any third parties;
- The section of the Opticians Act 1989 (as amended 2005) that provides the Registrar with the authority to make a decision on the application;
- Where applicable, details of any similar declarations received in the past and the decision made in these cases;
- A recommendation based on the information provided; and
- Copies of all received correspondence and documentation from the registrant/applicant and third parties.

The Registrar will decide whether to grant or refuse the application. When making this decision the Registrar will consider all of the information available and provide

clear reasons for the decision that has been taken. When making a decision the Registrar will consider:

- The circumstances of the declaration as set out by the applicant;
- Any further information that has been provided by the applicant, or sought by the GOC; and
- Decisions taken in cases with similar circumstances (where relevant).

In the event that the Registrar does not follow the recommendation set out, he will provide clear reasons for doing so, in addition to his decision in relation to the application. The Registrar will take all reasonable steps to ensure that there is a consistent approach to decision-making. These steps will include a regular review of both the process undertaken and the decisions made by the Registrar, as well as an audit of those decisions on an annual basis.

You will be given the reasons for the Registrar's decision when we tell you the outcome of your application.

In the event that the Registrar grants an application and it later comes to our attention that a different decision should have been reached (for example, an investigation has concluded with an outcome that might affect your fitness to practise), the Registrar will refer the matter to the GOC's Fitness to Practise team. The applicant or registrant will be informed of this in writing. For further information on the Fitness to Practise department's procedure, please refer to: [http://www.optical.org/en/Investigating\\_complaints/index.cfm](http://www.optical.org/en/Investigating_complaints/index.cfm)

When we notify you of the outcome of the Registrar's consideration we may tell you that you do not need to declare the matter to us again. We may also advise you on any future steps you need to take in relation to this declaration and your registration. If you fail to follow this advice, this may affect your fitness to carry on business in the future. If you have declared that you are currently under investigation we will ask you to notify us of the outcome of the investigation as soon as you know it.

The decision of the Registrar is made in private and reasons for the decision are not published. However, there will be occasions where the consideration of an application by the Registrar becomes public knowledge. If this happens the GOC will release information in accordance with our disclosure policy and in compliance with the law in order to maintain public confidence in our regulatory activities.

### **How to appeal against a decision**

As described above, the decision of the Registrar will be given to you in writing with reasons. Also in the letter will be information about how to appeal against the decision of the Registrar.

Under the terms of paragraph two of schedule 1A to the Opticians Act 1989 (as amended), a decision by us not to register you is an appealable registration decision.

It is, therefore, open for you to appeal to the Registration Appeals Committee against this decision not to admit your name to the register. Should you wish to bring such an appeal you must give notice of appeal in accordance with paragraph four of schedule 1A.

Under the terms of paragraph 4 (3) of that schedule you have 28 days from the date of the letter advising you of the Registrar's decision to tell us, in writing, should you wish to pursue an appeal. If you do not tell us that you wish to appeal within 28 days you will not be able to appeal at a later time.

Once we have received notice that you wish to appeal we will contact you to confirm that we have received your correspondence and what the next steps will be.

If you do not wish to appeal, this does not prevent you from making another application in the future. However, if you do this, you should consider the reasons why the Registrar refused your application and what, if anything, you can do to satisfy the Registrar that you are a fit person to be on the GOC register.

### **Where to find further information**

The following documents may be helpful to you when you are making an application that includes a declaration:

- The GOC Codes of Conduct;
- The Opticians Act 1989 (as amended), and the GOC Rules;
- The competencies for optometrists and dispensing opticians; and
- Protocol for the investigation and prosecution of criminal offences.

All of this information can be found on our website.

### **Disclaimer**

The information in this document is intended as guidance only and is correct as at the date on the first page. It is intended that it is a living document. It will be amended as and when appropriate, taking into account the growing experience of the GOC in dealing with applications with declarations, as well as legal developments, including the amendment/introduction of legislation and new case law. The GOC will review this guidance periodically. The GOC will highlight any significant amendments to this guidance by publishing the amended version on the GOC's website, [www.optical.org](http://www.optical.org) at least one month before the amended guidance will be used by the Registrar.

## **Annex one – GOC statement on applications for transfer of registration where the applicant is under fitness to practise investigation by the GOC.**

From time to time the GOC will receive applications from registrants who wish to transfer their registration from one part of the GOC register to another. This is most usually the case where student optometrists or dispensing opticians complete their qualification and apply for registration as a fully qualified practitioner.

In cases where an application for transfer is made and the applicant is subject to a fitness to practise investigation, the GOC will refuse the application for transfer until such time as the investigation has been concluded. The Registrar will not consider the circumstances of any individual case when making this decision; the fact of the investigation will be the reason for the refusal.