

Response to General Optical Council consultation on COVID-19 statements

January 2021

1. Introduction

- 1.1 The Professional Standards Authority for Health and Social Care promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk
- 1.2 As part of our work we:
- Oversee the ten health and care professional regulators and report annually to Parliament on their performance
 - Accredit registers of healthcare practitioners working in occupations not regulated by law through the Accredited Registers programme
 - Conduct research and advise the four UK governments on improvements in regulation
 - Promote right-touch regulation and publish papers on regulatory policy and practice.

2. General comments

- 2.1 We welcome the opportunity to respond to the General Optical Council (GOC) consultation on the statements developed in response to the Covid-19 pandemic. We recognise that many of these statements had to be developed at short notice with limited opportunity to consult with stakeholders. We support the GOC's decision to consult on these statements now that it has the opportunity to do so.
- 2.2 In general terms we are supportive of the GOC's action in providing clear information to registrants and the public during the various phases of the pandemic and don't have any significant concerns about the content of these. However, we agree that where appropriate the GOC should seek to incorporate these into more general regulatory policy, seeking changes to its legislation where necessary.
- 2.3 We support the use of a clear classification system to indicate when the various statements will apply, and it appears logical to align with the College of Optometrist's system for clarity and to avoid duplication. We note however the risk of potential confusion arising from how this classification fits with the systems being used to describe the different restrictions imposed by Governments across the four countries. We suggest the GOC consider

whether further clarity can be provided to aid understanding about the linkage between these systems.

- 2.4 In addition, where changes made to processes may have an ongoing impact on registrants or complainants, we suggest that the GOC ensure they are able to offer support and adaptations where necessary.

3. Detailed comments

Categorisation

- 3.1 We support the aim to provide clarity over when the different statements will apply. As the College of Optometrists have already developed the red-amber-green categorisation it makes sense to align with this system rather than developing a new one.
- 3.2 We do however suggest that the GOC review how clearly the classification system for the statements links to Government systems for classifying the level of restrictions imposed to deal with the pandemic e.g. the Tier system and references to local and national lockdowns.
- 3.3 For example, the classification system suggests that the 'red phase' applies to circumstances akin to a national lockdown. However, more recent information from the College of Optometrists suggests that despite the national lockdown in place across the UK optometrists should follow advice relevant to the amber phase (currently referred to as 'not lockdown') as most optical practices remain open.¹
- 3.4 We recognise that there are variations across the four countries of the UK and that the Tier system and associated restrictions have continued to develop during the course of the pandemic which creates challenges in referencing it in this context. However, as it stands there appears to be the potential for confusion between the terminology used nationally and in this context.
- 3.5 We suggest that the GOC keep this under review as the situation develops during this and future pandemics.

Content and impact of existing Covid-19 statement

- 3.6 We don't have any significant concerns arising from the content and purpose of the existing Covid-19 statements. In general terms we have focussed comments on any areas where there appeared to be a particular risk to the public or confidence in the GOC's approach or where changes were likely to have a particular impact on registrants or complainants.

Serving of documents and facilitating hearings

- 3.7 In relation to the statement covering the serving of documents and facilitating of hearings during Covid-19 we support the actions taken to facilitate the

¹ <https://www.college-optometrists.org/the-college/media-hub/news-listing/eye-care-provision-under-new-national-restrictions.html>

continuation of processes during the most acute phases of the Covid-19 emergency.

- 3.8 We welcomed the GOC's decision to develop and consult on the clear protocol for the holding of remote hearings in Summer 2020. As we commented at the time, a key element of seeking to continue with proceedings in this way is providing clear guidance and information to registrants, complainants and witnesses in advance of a hearing and additionally clarify availability of any adjustments that can be made to support participation as appropriate.
- 3.9 We broadly support the GOC's intention to formalise the powers needed to support this approach on an ongoing basis through changes to their legislation. We note that the GOC's rules regarding electronic serving of documents, remote hearings and reduction of FTP committee size from five to three have already been temporarily changed from November (valid until 1 October 2021).
- 3.10 We agree that the majority of the changes proposed, specifically the serving of FtP notices via email, broadening the definition of 'venue' to allow reference to audio or video conferencing facilities and allowing Hearings Managers flexibility in postponing or adjourning hearings as necessary are reasonable. We note that these changes may also support wider work to improve timeliness within the FtP process.
- 3.11 We would however express some caution about how the reduction in size of FTP committees (with a quorum of just two members) might affect the quality of decision making. We would expect the GOC to monitor (and report to its Council) on the impact of all of these changes, particularly if it aims to retain these in the longer term.

Changes to CET cycle

- 3.12 We don't have any significant concerns about the statement outlining the decision to waive the annual six-point CET requirements. As it stands the GOC have not proposed any change to the overall requirements for this three-year cycle which will end on 31st December 2021. We recognise that it is likely to have been challenging to arrange/attend CET this year, so it seems reasonable to be flexible. We would expect the GOC to take into account any significant issues raised as part of this consultation.
- 3.13 We do however note the potential for Covid-19 restrictions to continue to have a significant impact in 2021 which will constitute the final year of the cycle. It may be helpful for the GOC to consider as early as possible the circumstances in which it would consider any further flexibility.

Verification of contact lens specifications during the Covid-19 emergency

- 3.14 We note the statement covering the ability of a registrant to use their professional judgement in relation to the supply of contact lenses without verification of the specification during the red phase of the pandemic.
- 3.15 We recognise the sense in providing guidance on flexibility in this area but suggest that it may be helpful for the statement to reference any potential patient safety risk of supplying an incorrect prescription of contact lenses

which presumably the legislation is intended to guard against. We would expect the GOC to take account of any further concerns raised as part of this consultation.

Other

- 3.16 We support the GOC's intention to draw on their experience of managing the impact of the Covid-19 pandemic when planning the response to future emergencies.
- 3.17 We agree that the production of statements has been an effective way of supporting registrants and providing clarity to the public on the approach taken during this pandemic. A key consideration is simplicity and clarity to registrants and the public on the approach taken.
- 3.18 Whilst we recognise that there will always be some changes that will only be appropriate to introduce during an emergency situation, we suggest that wherever possible the GOC seeks to build flexibility into its normal processes to allow it to respond to future events. This appears to be reflected in the changes that the GOC is proposing to incorporate into general regulatory policy and the changes it is proposing to its legislation.
- 3.19 We support the inclusion of the draft impact assessment with the consultation. We don't have any specific comments to make on this.

Further information

- 3.20 Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

Professional Standards Authority for Health and Social Care
157-197 Buckingham Palace Road
London SW1W 9SP

Email: policy@professionalstandards.org.uk

Website: www.professionalstandards.org.uk

Telephone: 020 7389 8030