

### Service of statutory notices by email policy

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## 1. Statement

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- 1.1 As the UK regulator for optometrists and dispensing opticians, we are committed to protecting the public, maintaining standards and responding to patient concerns raised. In doing so, there are circumstances in which our legislation requires us to issue statutory notices or notifications ('notices') to our registrants (for example, removal of a registrant from the register, refusal to retain or restore a registrant on/to the register, interim order hearing or substantive hearing) or applicants seeking initial registration or to restore to the register. We are committed to doing this in a way that is fair to registrants/individuals and in line with the requirements of our legislation.
- 1.2 Section 23A of the Opticians Act 1989 ('the Act') allows for the creation of rules in respect of the service of notices by email.
- 1.3 Rules that relate to the service of notices under this section include:
  - 1.3.1 [The General Optical Council \(Fitness to Practise\) Rules 2013](#) ('the Fitness to Practise Rules'); and
  - 1.3.2 [The General Optical Council \(Registration\) Rules 2005](#) ('the Registration Rules').
- 1.4 The above rules were amended by The General Optical Council (Committee Constitution, Registration and Fitness to Practise) (Coronavirus) (Amendment) Rules 2020, with a new rule (2A) stating that "any notice, notification or other document which is required by these Rules to be served on another person may be served by email if that person has provided an email address for communications".
- 1.5 Section 23A(3) requires that these rules shall secure that a notice cannot be served by email "unless the person consents in writing to the receipt of notices from the Council by electronic communication and the communication is sent to the...address specified by that person when giving consent". This policy ensures that we will comply with this section when implementing the 2020 Rules.
- 1.6 Email is becoming more widespread and convenient, and we have considered whether in some circumstances it would be appropriate to use email instead of post. As per our legislation, we will only consider serving notices by email where the individual/registrant has consented in writing and provided an email address for this purpose.
- 1.7 We recognise that there may be additional risks in sending notices by email and this policy sets out the safeguards that we will apply, to ensure fairness to our registrants and applicants seeking initial registration or restoration.

## **2. Purpose**

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- 2.1 The purpose of this policy is to set out how and when we will use email to serve notices and the safeguards that we will apply, to ensure fairness to our registrants and applicants seeking initial registration or restoration.

## **3. Scope**

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- 3.1 This policy only applies to notices to registrants and applicants under the Registration Rules (rules 14, 19-20 and 23-24) and Fitness to Practise Rules (rules 4-5, 8, 13-17, 23, 28-31, 34-35, 37, 40, 52 and 56), and The General Optical Council (Continuing Education and Training) Rules 2005 (rule 20A).
- 3.2 This policy does not apply to any other notices under our legislation, for example, notices to education providers under section 13(5) of the Act or notices to members under The General Optical Council (Committee Constitution) Rules 2005 or to applicants under The General Optical Council (Registration Appeals) Rules 2005.
- 3.3 This policy also does not apply to our communications with other participants in the fitness to practise process (for example, complainants or witnesses).

## **4. Process to be followed to obtain consent**

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- 4.1 We will ask registrants to consent in writing to receiving notices by email, and we will send notices to the email address that the registrant specifies/identifies when giving consent<sup>1</sup>. In fitness to practise cases, we will continue to seek consent in individual cases by emailing the registrant – this will usually be at the case examiner stage of a case. We are in the process of implementing a new MyGOC<sup>2</sup> (which we expect to be at the end of July 2022) and at this point in time we will update MyGOC and our annual registration renewal form with the following wording:

“We want to communicate quickly and effectively with you. The most efficient way to do this is by sending you emails. This is the way you receive almost all information from us now.

We are required, by law, to send some types of communications as paper copies unless you consent to receive these by email.

To help us communicate more efficiently and reduce overheads, we are seeking your consent to receive all statutory notices by email. This will

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<sup>1</sup> See paragraph 4.3 for what will happen if a registrant changes their email address on their MyGOC account after providing consent for service of notices by email.

<sup>2</sup> MyGOC is the IT system we use for our registrants to renew their registration with us and log their continuing professional development (CPD).

include notices under the Registration Rules 2005 (rules 14, 19-20 and 23-24), Fitness to Practise Rules 2013 (rules 4-5, 8, 13-17, 23, 28-31, 34-35, 37, 40, 52 and 56), and Continuing Education and Training (CET) Rules 2005 (rule 20A).

Please select Yes or No to give your consent to receiving statutory notices by email at the email address on your MyGOC account which is currently [pre-populated email address from MyGOC database]. If you would like to change your email address either now or in the future, you can do this by updating your email address in the personal details section of your MyGOC account.

If you select 'no', you will continue to receive other communications except statutory notices by email.

You can update your preferences at any time using MyGOC or by contacting the Registration team.

Your email address is always kept private in accordance with our [Information Governance policy](#).”

- 4.2 We will use the same wording when a MyGOC account is created by someone applying for first registration or restoration.
- 4.3 When a registrant changes their email address in their MyGOC account, if they have previously consented to receiving notices by email, they will be advised that:
  - 4.3.1 statutory notices will now be sent to the email address they have just provided; and
  - 4.3.2 if they do not want statutory notices to be sent to the email address they have just provided, they can either a) change their consent option on the 'service of statutory notices by email' page of their MyGOC account or b) change their email address to an address where they would be content to receive notices by email.
- 4.4 Where an applicant/registrant does not give consent or withdraws consent at a later date, we will serve notices in accordance with the requirements of section 23A(1) of the Act (usually by recorded delivery).
- 4.5 Even where a registrant has already indicated consent to receive notices by email, we will arrange for a notice to be sent as a paper copy by post if requested at any point.
- 4.6 Opting out of service of notices by email will not affect other communications (for example, registration reminders will continue to be sent by email, and

routine fitness to practise correspondence, such as general updates about a case or requesting dates to avoid for a hearing, will continue to be sent by email or post).

## **5. Safeguards to be applied for checking receipt of notices sent by email**

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- 5.1 Serving notices by email is quick and secure but we consider it appropriate to undertake proportionate measures to check whether a notice sent by email has been received by the intended recipient. We are not obliged to check receipt of a notice sent by email but we will conduct reasonable checks to ensure fairness to the applicant/registrant.
- 5.2 Although not required by legislation, we will apply the safeguards below to check whether an applicant/registrant has received a notice sent by email.
- 5.3 The safeguards outlined below to be applied by the Registration and Fitness to Practise teams will differ slightly because of the different volume and nature of the communications (e.g. Registration renewal notices will be sent in bulk by a secure mass email sender service).
- 5.4 In Registration we will apply the following safeguards:
  - 5.4.1 before sending any notice by email, we will check that the individual/registrant has consented to this and has not withdrawn that consent, and that we are using the email address that has been provided and verified by the individual/registrant on MyGOC<sup>3</sup>;
  - 5.4.2 after sending any notice by email, we will conduct checks to identify whether the email has been received by the recipient into their inbox or if it may have been blocked by the recipient or automatically diverted to their spam/junk folder<sup>4</sup>; if this is the case, we will attempt to unblock and re-send the email;
  - 5.4.3 after sending a notice of failure to apply for renewal under rule 19 of the Registration Rules to anyone who has not renewed their registration in advance of the renewal deadline, we will make an additional attempt to contact the person by telephone and leave a voicemail if necessary; and
  - 5.4.4 when sending a removal notice under rule 20 of the Registration Rules to anyone who has not renewed their registration, we will also serve notice by post unless we are satisfied that they are aware of the removal (e.g. if they have already advised us that they intend not to renew).

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<sup>3</sup> The verification process is a second, automated check to ensure that we are using the email address provided by the registrant.

<sup>4</sup> This is an electronic check available to the Registration team where they send bulk emails.

- 5.5 In Fitness to Practise we will apply the following safeguards:
- 5.5.1 before sending any notice by email, we will check that the individual/registrant has consented to this and has not withdrawn that consent, and that we are using the email address on MyGOC (which has been verified by the Registration team) or an alternative address provided by the individual/registrant;
  - 5.5.2 when sending a notice by email we will ask the recipient to acknowledge receipt;
  - 5.5.3 if we have not received confirmation of receipt of a notice from the recipient, we will make reasonable attempts to check the notice has been received (for example, we may make a number of follow up emails, telephone calls and/or try alternative contacts);
  - 5.5.4 if we are not satisfied that notice of a hearing sent by email has been received by the individual/registrant, we will send the notice by first class post and, subject to our overriding duty of public protection, we will ensure there is sufficient time for the individual/registrant to prepare in line with statutory timescales; and
  - 5.5.5 when asking a committee to proceed with a hearing in the absence of the registrant or applicant, we will:
    - 5.5.5.1 confirm that service by email was to the email address provided for this purpose; and
    - 5.5.5.2 provide the committee with all communications relating to service.

## **6. Compliance**

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- 6.1 If a registrant or other external stakeholder considers that we have not complied with this policy, we would encourage them to provide feedback to the person who they have been dealing with. If they are unable to resolve the matter, they can make a corporate complaint using our [Corporate complaints and feedback policy](#) by contacting our Compliance team on [corporatecomplaints@optical.org](mailto:corporatecomplaints@optical.org) or 020 7580 3898.

## **7. Transparency**

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- 7.1 We will keep a record of all registrants who have agreed to receive notices by email. In line with our [Information Governance Handbook](#), this information will remain confidential unless we are required to disclose it in the public interest.

## **8. Reasonable adjustments**

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- 8.1 We will send a paper copy of notices to any registrant who requests this. In addition, where we receive information that a registrant who has previously consented to receive notices by email may find it difficult to process them in this way (for example, because of a health condition), we will endeavour to meet the

needs of the registrant and will consider all reasonable adjustments on a case by case basis, which may include sending paper copies or using increased font size etc.

## **9. Glossary of terms**

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- 9.1 Notices: there are circumstances in which our legislation requires us to issue notices or notifications to our registrants, or to applicants seeking to register or restore to the register. The reference to notices in this document refers to all notices and notifications served to registrants in accordance with section 23A of the Act in respect of the Registration Rules and Fitness to Practise Rules (see section 3 above). The terms 'notice' and 'notification' are interchangeable.
- 9.2 Statutory notices: means the same as 'notices' in the glossary above.