

Illegal practice strategy consultation responses – comments

To what extent do you agree that the updated protocol links more closely with our overarching objective of protecting the public? If you answered disagree or strongly disagree please explain your reasons.

Individual/org	Comment	GOC response
<p>Business registrant / employer (response can be published)</p>	<p>99% of the problem is EU based businesses operating distribution centers from within the UK if you fail to address the most prevalent issue the entire protocol is a waste of stakeholder money and will offer no protection to the public.</p>	<p>Thank you for your comment. The Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a UK court. It would also be extremely hard to enforce any conviction or order. In addition, criminal offences relating to supply do not arise at distribution stage - they arise at the point of sale. The Act does not provide the GOC with any legislative basis on which to act against distribution centres. For more information please see paras 39-40 of our response to our consultation on illegal practice strategy and protocol.</p>
<p>Optometrist (do not publish response)</p>	<p>[REDACTED]</p>	<p></p>

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<p>Dispensing optician (response can be published)</p>	<p>I hope, in the interest of public safety. Suppliers outside of the United Kingdom fall under this new legislation. Current laws work in favour of people who sell medical devices from outside the UK. There should be a law on purchasing as a way of deterring people from buying from unregistered sellers. Online sales of Spectacles and contact lenses from outside of the United Kingdom make a mockery of our profession, therefore, as per your statement to protect the public, you NEED to act on the reports of this.</p>	<p>Thank you for your comment. As described above, the Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a UK court. It would also be extremely hard to enforce any conviction or order. For more information, please see paras 39-40 of our response to our consultation on illegal practice strategy and protocol</p>
<p>Optometrist (response can be published)</p>	<p>Still too vague and still virtually no enforcement carried out majority of online CL sales do not follow any of the important GOC rules which we as practitioners have to adhere to. Px chose their own lens type, choose their own prescription, teach themselves how to use lenses don't attend regular checks, don't change cases and use whatever solution is cheap. This is a medical device yet can be easily bought from clothes shops, tattooists and immoral online sales companies and still nothing is being done nothing has moved on since 2015 and has been a lot worse since the pandemic. As an experienced practitioner I find this very frustrating and disappointing.</p>	<p>Thank you for your comment. We know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be</p>

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		<p>complied with. We recognise we need to communicate more effectively and more widely about our remit and approach to illegal practice and will consider how best this can be achieved.</p> <p>For more information, please see paras 45-48 of our response to our consultation on illegal practice strategy and protocol.</p>
<p>BLM Law (response can be published)</p>	<ul style="list-style-type: none"> • The protocol contains a helpful summary of the offences created by the Opticians Act. • The introduction of acceptance criteria provides clarity and is welcomed. 	<p>Thank you for your observation.</p>
<p>College of Optometrists (response can be published)</p>	<p>The College of Optometrists welcomes this updated protocol, and in particular we support the GOC’s collaborative approach to prevent online illegal sales of optical appliances, such as children’s spectacles and cosmetic contact lenses, that can be sold only under the supervision of a registered eye care professional. The updated protocol rightly provides guidance on when the GOC will open an investigation following a report of alleged illegal practice, however, it should form part of a wider illegal practice strategy. The protocol does not constitute in itself such a strategy, as set out in paragraph 1.5 of the consultation document, and it will not be sufficient to effectively prevent illegal practice in all cases, in particular where providers of optical appliances are based overseas. More specifically, we recommend including in this protocol guidance on how patients, registrants and businesses could report cases of illegal practice. This</p>	<p>Thank you for your comment and for acknowledging the challenges of enforcing UK legislation against non-UK businesses.</p> <p>As described above, we know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>We are also working with online platforms to raise awareness of our</p>

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	<p>process should be as easy and quick as possible. This would encourage the public and registrants to report cases of illegal practice without delay. Now more than ever, we need a wider illegal practice strategy. In recent years, the healthcare environment has seen an increase in online prescribing and dispensing of optical appliances. This raises issues with potential lack of appropriate supervision for safe supply of contact lenses without specification verification and spectacles supplied without ensuring the prescription is valid. This has always been a concern for the sector and even more so since the pandemic started. COVID-19 has indeed accelerated a shift to drive citizens to access health care online and use self-care and wellbeing apps. Although there are some benefits, there are also risks as supply of medical devices or remote consultations may take place from jurisdictions outside the GOC’s regulatory powers. Increased shift to online consumer behaviour exposes more patients to online suppliers of spectacles and contact lenses, and thus increases risk of harm occurring. This risk may rise with respect to increased presence of potentially unscrupulous spectacle/contact lens suppliers, whether they are provided from jurisdictions inside or outside the GOC’s regulatory powers, particularly those that give the impression they are based in the UK. Further, online sight tests and remote care Apps lack the regulatory oversight that UK citizens may take for granted. This results in an increased risk of harm posed by issues related to competency, conduct and poor efficacy.</p> <p>We appreciate that the GOC does not have jurisdiction to take action on overseas sales, but we would like the GOC, as a minimum, to raise the issue with the appropriate local regulator / authority and recommend a course of action to end the illegal practice occurring in the UK. In addition, we recommend the GOC to: - Explore whether the upcoming Opticians Act review will be an opportunity to extend</p>	<p>legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with. We recognise we need to communicate more effectively and more widely about our remit and approach to illegal practice and will consider how best this can be achieved.</p> <p>The GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC’s overarching objective to protect the public.</p> <p>For more information, please see paras 45-48 of our response to our consultation on illegal practice strategy and protocol.</p>

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	<p>the GOC’s jurisdiction to cover all businesses and individuals providing services in the UK no matter where they are based. - Explore whether the current work on reforming healthcare regulators (led by the DHSC) will be able to extend the GOC’s enforcement powers to ensure suppliers follow their legal obligations with respect to the Opticians Act. - Engage more with providers and those who have the power to stop non-compliant sales, like the main online platforms, other regulators and enforcement bodies, manufacturers, MHRA, Trading Standards, professional bodies, optical businesses, representatives of patients and the public, and consumer groups. Addressing illegal practice effectively will require concerted effort across and outside of the optical sector. - Raise public awareness by leading regular campaigns about the risks of buying optical products online that have not been verified as safe, and by publishing information on the benefits of seeking optical appliances from suppliers that do comply with UK legislation, including the importance and role of registered eye care professionals. Better information for patients will help UK patients to differentiate and identify compliant and non-compliant suppliers. We also feel there is a key role for the GOC in advising patients: - on safety - that they should wear the contact lenses as advised by their original fitting optometrist or contact lens optician - on their rights and entitlements when buying online (including to return lenses that are not fit for purpose) - what to do if they encounter a problem. - Work with manufacturers, suppliers and retailers to produce, publish and distribute consumer information that educates the public about safe optical appliances supply in easily understandable language, and highlights the risks of ordering a different lens from what was recommended. - Publish targeted information for other health professionals outside of the optical sector, eg pharmacies, about the risks of buying optical products online that</p>	

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	<p>have not been verified as safe. Professionals from outside of the optical sector should also be able and encouraged to report cases of illegal practice with a quick and easy route for the GOC to investigate and possibly prosecute.</p>	
<p>Optometrist (response can be published)</p>	<p>In the time taken for you to have sent a cease and desist letter and then buying again how many members of the public could have a bought a year's supply of cl during that time.</p>	<p>Thank you for your observation. We received some comments that the protocol was drafted with a bias towards not acting. We have revised drafting and believe that it balances the need for public protection with a proportionate, risk-based approach</p>
<p>Optometrist (response can be published)</p>	<p>Needs to be stronger</p>	<p>Thank you for your comment. Please see our response to our consultation on illegal practice strategy and protocol for a description of the changes we've made to the protocol as a result of feedback received.</p>
<p>ACLM (response can be published)</p>	<p>The Consultation Document para 1.5 mention's the GOC's overarching public protection function and enhanced public awareness, but where is this demonstrated? With the relentless growth of online sales there is a pressing need for a full-blown strategy to manage this significant drift in the marketplace, and not just protocols which harden up the existing boundaries. The limits of the GOC's powers are well appreciated but practitioners are demanding action, loud and clear – see your Question 2, our point 4 below. The ACLM would be very keen to participate in developing such a strategy. NOTE: the use of the word 'online' throughout this</p>	<p>Thank you for your comment and for acknowledging the challenges of enforcing UK legislation against non-UK businesses.</p> <p>As described above, we know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence</p>

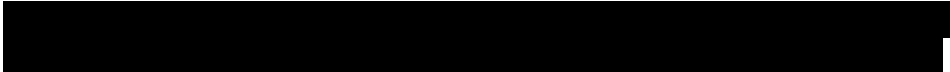
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	<p>response should be taken to mean ‘online-only’ suppliers. Optical practices which have an online presence are fully accountable and able to, and unquestionably do, carry out the full range of services in patient care and aftercare. In the unlikely event that a patient needs to complain there is a clear GOC process in place to do so. OCCS annual reports consistently report a very low number of complaints about these practice-suppliers. The new GOC website is much improved, especially the search facility, but it is still not very helpful for a member of the public who wants to complain about a non-registrant. A search for ‘cosmetic’ for example produces only one press release dated May 2019. There is nothing about the imperative for people buying cosmetic (or indeed any) contact lenses over the internet to possess a Contact Lens Specification or else to proceed with caution. At the very least it would be helpful to list some of the things to watch out for, and what to do if bad practice by the online supplier is suspected. It should be clear and concise, and free of legalese, for members of the public to grasp. It would be highly desirable for all optical bodies to display exactly the same information on their websites, and in the same format, so that members of the public receive consistent messaging and clear, non-technical, direction on all the key points. This was agreed some years ago during GOC stakeholder group meetings but was never actioned. While the GOC website may not be a first point of contact the information should be designed in such a way that it can be picked up by any simple Google search for contact lens guidance. Para 1.6 mentions collaborative working, but our experience over many years is a reluctance to share information. The ACLM has reported a number of cases of illegal practice but has had to really press the GOC to get any sort of feedback. Even then the details are so scant as to discourage the effort of future reporting. In most cases there</p>	<p>to support any case for retaining or changing legislation.</p> <p>We are also working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with. We recognise we need to communicate more effectively and more widely about our remit and approach to illegal practice and will consider how best this can be achieved, including through the GOC website.</p> <p>We also recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely.</p> <p>However, the GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is</p>

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	<p>has been no feedback, in which case the opportunity to approach another organisation such as MHRA or OCCS and deal with a specific case in timely fashion has been lost. With the forthcoming UK medical device regulations there is a clear need for the GOC to forge much stronger links with MHRA because of its responsibilities for medical devices (soon to include plano/cosmetic lenses) themselves. Regular GOC Council meetings should have a section describing its actions on illegal activity in some detail so that registrants and optical bodies can take appropriate corrective action. Para 3.3-3.4 talks of forging relationships with online platforms (elsewhere listed as Amazon, Facebook, Instagram, Google, TikTok) but what about the growing number of closer to home and smaller UK-based online suppliers? These are likely to be more relevant for contact lens purchases, and certainly more likely to fall within the GOC's remit (employing a registrant etc). The exception is UK-based suppliers who are registered overseas and who therefore currently escape prosecution. This is a gaping loophole in the law, which of course affects many other sectors too, and the GOC should engage with Government to get the law changed. The root problem is gathering evidence of counterfeit products or illegal trading and probably the only way to do this is for the GOC (as a neutral body) to try to interview the specific contact lens wearer when actual or potential harm is reported – usually in the national press. Who was their optician? When did they last have a sight test? What are their lens care routines? Which specific contact lenses caused the harm? etc etc. Only the regulator has the independent status and authority to persuade the press to cooperate and for the person who had suffered harm to give accurate and detailed answers – even if only on a voluntary basis. This will then be an invaluable indicator (provided</p>	<p>not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC's overarching objective to protect the public.</p> <p>For more information, please see paras 39 – 44 of our response to our consultation on illegal practice strategy and protocol.</p>

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	shared with the optical bodies) and may even lead to a better understanding of the problem and help prevent its recurrence.	
Member of the public (Do not publish response)		
BCLM (can publish response)	<p>The GOC only has powers to act against those who are registered with the GOC. The source of illegal practice is more likely to be somebody who is not registered with the GOC, and/or who is operating outside of the UK. The updated protocols only offer a minor tweak to the existing rules. As online sales grow it is recommended that a strategy is implemented to manage this area of supply – it represents a potential threat to patient and public safety in more than one way. There are of course legitimate optical practices supplying vision aids which are fully accountable and support/offer the full range of services in patient care and aftercare. In the unlikely event that a patient needs to complain there is a clear GOC process in place to do so.</p>	<p>Thank you for your comment and for acknowledging the challenges of enforcing UK legislation against non-UK businesses.</p> <p>As described above, we know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>For more information, please see para 42 of our response to our consultation on illegal practice strategy and protocol which states that the GOC will continue to raise awareness of our legislation as part of our ongoing approach to illegal practice so that users are aware of the legislation in place to keep them safe. The protocol is the first part of this work and we</p>

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		<p>have clarified sections on the legislation relating to the testing of sight and sale of prescription spectacles to make them clearer in response to feedback received as part of the consultation.</p>
<p>Education provider (can publish response)</p>	<p>The wording is quite vague and I do not believe that individual cases of egregious risk will be acted upon. The guidance appeared to suggest that the GOC will only pursue retailers, and not (for instance) people who are requesting their employees to purchase coloured contact lenses online for Hallowe'en.</p>	<p>Thank you for your comment</p> <p>See paragraph 40 of response document for clarification of when offences relating to supply arise.</p>
<p>ABDO (can publish response)</p>	<p>ABDO supports the new aspects of the protocol, namely the emphasis on collaboration with online platforms to prevent illegal sales. This will be particularly beneficial in relation to the supply of products that can be sold only under supervision and, therefore, cannot be sold online, such as children's spectacles and cosmetic contact lenses. We also support test purchases to obtain evidence of an illegal sale in cases where the GOC suspects that illegal sales are continuing after a cease-and-desist letter has been sent. However, the overall impression created by the protocol is that tackling illegal practice is not a priority area for the GOC and that a key concern is being able to show that a clear process has been followed in dealing with reports of illegal practice and that decisions to not take action can be justified. We agree with the GOC's aspiration, as set out in paragraph 1.5 of the consultation document, to develop a strategy that links more closely with its overarching public protection function. Unfortunately, the updated prosecution protocol does not in itself constitute such a strategy. In addition, paragraph 1.6 states that the</p>	<p>Thank you for your comment and for acknowledging the challenges of enforcing UK legislation against non-UK businesses and supporting our approach for test purchases.</p> <p>As described above, we know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>We recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to</p>

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	<p>GOC has carried out a review of its illegal practice strategy and protocol in line with its desire, “to be more proactive in [its] approach to illegal practice and also provide clarity on when [it] will take action and what action will be taken.” However, the consultation document contains no information about the outcome of the GOC’s review of its existing strategy. This strategy has five elements of which handling complaints is only one. What the GOC has published for consultation is a revised prosecution protocol rather than a strategy to address illegal practice in the optical sector. While handling reports of illegal practice in line with the protocol should form part of an illegal practice strategy, relying solely on this activity would be of limited effectiveness. The GOC concedes this point in, for example, acknowledging that concerns raised about non-UK businesses or individuals would simply be closed. This will not help members of the UK public who buy products from such businesses and risk harm as a result. For this reason, action to promote patient awareness of the risks involved in buying products and services online is also required. We would like to understand what outcomes the GOC is seeking to achieve in line with its duty to protect the public and what activities it will be undertaking to achieve those outcomes. We recognise that addressing illegal practice effectively will require concerted effort across the optical sector and would be happy to work with you and other sector bodies to support the development and implementation of a revised illegal practice strategy.</p>	<p>and action against illegal practice more widely.</p> <p>The GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC’s overarching objective to protect the public.</p> <p>For more information, please see paras 39 – 44 of our response to our consultation on illegal practice strategy and protocol.</p>
<p>AOP (can publish response)</p>	<p>Whilst we think the revised illegal practice protocol makes some improvement to the current prosecutions protocol, it does not go far enough in addressing the full set of issues and risks to public protection arising from illegal practice. The GOC needs to do more to strengthen the overall strategy, which the protocol will be one</p>	<p>Thank you for your comment. Please see our response to our consultation on illegal practice strategy and protocol for a description of the</p>

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	<p>important element of. In order to properly meet its objective for public protection the GOC's illegal practice strategy needs to include the following:</p> <ul style="list-style-type: none"> • Working with other enforcement bodies to ensure that illegal practice is tackled. • Clear information for the public about the optical regulations that are in place to keep them safe, and how to identify regulated optical providers. • Clear information about how to raise complaints and concerns with the GOC about alleged illegal practice. • Raising public awareness about the risks of illegal and unsafe practice. • Provide regular outcome reports on the implementation of the illegal practice protocol, including statistics on concerns raised, decisions reached, outcomes of test purchases. • Engage with stakeholders in the sector about the illegal practice strategy. These other elements are essential for the strategy to fulfil its public protection remit. This is because the GOC's protocol itself will not be able to prevent illegal and unsafe practice in all cases, where sellers are based overseas or otherwise outside of scope for enforcement action. We have further explained the areas that are missing in our answers to questions 2 and 4. 	<p>changes we've made to the protocol as a result of feedback received.</p> <p>We recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely.</p> <p>The GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC's overarching objective to protect the public.</p>
<p>FODO (can publish response)</p>	<p>This consultation is welcome and the protocol helpful and mostly clear. The consultation itself however is slightly disappointing. On the positive side, the protocol contains a helpful summary of the offences under the Opticians Act, and the new clarity brought by the acceptance criteria is very welcome as is the approach to test purchasing where it is suspected that illegal practices is continuing after 'cease and desist'. However, the protocol in isolation falls short</p>	<p>Thank you for your comment. We recognise that the protocol is not, of itself, a strategy and we have developed objectives to form the basis of our approach to illegal practice which flow from the Professional Standards Authority (PSA) standard</p>

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Individual/org	Comment	GOC response
	<p>of the strategy of which it is supposed to be part (as mentioned on the GOC consultation hub). Nor does it give any evidence of the scale and depth of the review which GOC has carried out (consultation hub again). Without that broader context it is hard to be convinced that the protocol – solid and helpful though it is - is an integral part of an overarching strategy to protect the public. We fully appreciate and empathise with the limitations of the GOC’s powers. Unfortunately the drafting gives the overriding impression of an eagerness to be shot of cases, rather than to resolve them to protect the public. For example, in paragraph 3.39, the eagerness to close precedes referral to another agency - which is must be the wrong way round - and there is nothing about following-up with those agencies to ensure that the public has been protected. The GOC is at pains to be proportionate, targeted and consistent (3.2) – which we fully support – but there is no mention in the document about ‘effectiveness’ for example an aim to be ‘as effective as possible’ in terms of addressing illegal practice within limited powers.</p>	<p>12, against which our approach to illegal practice is measured.</p> <p>As described above, we know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>For more information, please see paras 51 and 52 of our response to our consultation on illegal practice strategy and protocol. We received some comments that the protocol was drafted with a bias towards not acting. We have revised the drafting and believe that it balances the need for public protection with a proportionate, risk-based approach. We have also added a provision stating that a complaint referred to a third party may be re-opened if the third party does not act and the statutory time limit for bringing a prosecution for a summary only offence has not expired.</p> <p>The GOC will continue to raise awareness of our legislation as part of our ongoing approach to illegal</p>

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		<p>practice so that users are aware of the legislation in place to keep them safe. The protocol is the first part of this work and we have clarified sections on the legislation relating to the testing of sight and sale of prescription spectacles.</p> <p>See also paragraph 3.36.4 in the proposed illegal practice protocol.</p>

To what extent do you agree that the updated protocol will improve sector awareness of our remit regarding illegal optical practice? - If you answered 'disagree' or 'strongly disagree', please explain your reasons.

Individual/org	Comment	GOC response
Optometrist (can publish response)	Still way too weak and wishy washy	Thank you for your comment. Please see our response to our consultation on illegal practice strategy and protocol for a description of the changes we've made to the protocol as a result of feedback received.
Dispensing optician (can publish result)	See above. Public education is required, from yourselves as our governing body. The GOC take registrants money, yet do nothing to protect us as practitioners and the standards of education and training that we uphold on a daily basis.	We recognise we need to communicate more effectively and more widely about our remit and approach to illegal practice and will consider how best this can be

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		<p>achieved, including through the GOC website.</p> <p>We also recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely</p> <p>See paragraphs 46 to 48 of response document.</p>
BLM (can publish response)	<p>There has historically been concern amongst business registrants about a perceived lack of action on the part of the GOC in terms of online contact lens and spectacles sales by non-registered companies. This has potentially impacted on business' perceptions of the GOC more generally. It is helpful that the GOC is now setting out its intended approach to this issue, which appears to partially be an exercise in managing expectations. We note that illegal practice is likely to predominantly occur outside of the UK and that the GOC has no jurisdiction to take action in those circumstances.</p>	<p>Thank you for your comment.</p>
College of Optometrists (can publish response)	<p>We appreciate the openness and transparency of the GOC when highlighting the constraints and limitations of what the regulator can do, however, we recommend including instead a list of actions the GOC could effectively take forward, as suggested in our response to question five above. This would help the sector better understanding exactly what the</p>	<p>We recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to</p>

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	<p>regulator could do to tackle an illegal practice inside or outside its remit or jurisdictions. We also recommend the GOC to publish regular reports on the number of illegal cases that are reported, the manner in which they were addressed and the outcomes achieved. This would improve transparency and awareness of this specific area of activity.</p>	<p>and action against illegal practice more widely.</p> <p>See paragraph 44 in response document.</p>
<p>ACLM (can publish response)</p>	<p>It is unfortunate that the GOC does not include awareness by ‘illegal online sellers’ in this question, and the reality is that the GOC continues to turn a blind eye to protecting the public from rogue online suppliers. Legitimate online supply is to be encouraged, as evidenced by its ability to continue supplying patients by post with contact lens prescriptions during the current pandemic when a visit to the optician was often not possible. To be clear, several ACLM member companies supply online businesses in this country and abroad, some owned by high street opticians and some not. Manufacturer supply chains are often multi-faceted and the picture is not straightforward, but it is in the interests of ALL parties that patients are managed with their comfort and safety paramount so that they continue as confident contact lens wearers for as long as they choose. It is not in anyone’s interests for a significant percentage of new wearers to drop out of the category altogether, but that is what is increasingly happening, and it is eroding the effectiveness of the national network of skilled contact lens practitioners. There are several reputable online suppliers of contact lenses who are efficient, employ a properly qualified and experienced registrant and who demand to see a current contact lens specification, BUT:</p> <ol style="list-style-type: none"> 1. They are all outside the optical safety net provided by high street registrants – often referring purchasers to ‘their (high street) optician’ for 	<p>Thank you for your comment. We are grateful for all the feedback we received and have taken this into account in deciding how to amend the protocol and continue to develop our approach to illegal practice.</p> <p>An extension of our remit through legislative reform will require a clear evidence base linking illegal online supply and risk of harm, or risk of potential harm, to the public. The GOC encourages the sector to provide evidence of harm caused by illegal online supply as part of our call for evidence on the Opticians Act and consultation on associated GOC policies and explain how the evidence base necessitates additional offences and enforcement powers in order for the GOC to protect the public.</p>

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	<p>aftercare and in the event of any problems. This is passing the buck, is not proper customer care, and the discontinuity is bound to result in, at the very least, dissatisfied customers who may well drop out of the category altogether. Put it another way: how would the GOC deal with a high street practice which tested sight and sold contact lenses but then refused to deal with subsequent customer care? One should imagine a Fitness to Practice case would soon follow. The GOC itself states in its September 2021 Council Minutes: '...there is a clear evidence base that regular aftercare appointments mitigate the risk of eye infection for contact lens users'. This link to aftercare needs to be strengthened in the interest of patients.</p> <p>2. Where there are cases of harm the sufferer is most likely to go to a hospital A&E department, and not to a high street optician. That raises another source of lost data from which the GOC might be able to improve the situation: Hospitals are so over-loaded, particularly at the moment, that they are in no position to record and follow up the sort of details required in order for there to be a full GOC-led investigation. However, of all interested parties the GOC is in the best position to try and gather the necessary information from hospitals.</p> <p>3. Without high street opticians, who conveniently gather all the necessary measurements for online traders to supply the correct contact lenses, online suppliers would not have existed – although even that is now changing with the advent of online refraction, about which the GOC was alerted through the 2016 Foresight Report. These suppliers have reaped the benefits of the hard work of others and given very little in return, and now it looks like turning into a full-blown free-for-all. Most</p>	<p>We also note the comments asking the GOC to run public awareness campaigns about the risks of purchasing online. The GOC will continue to raise awareness of our legislation as part of our ongoing approach to illegal practice so that users are aware of the legislation in place to keep them safe. The protocol is the first part of this work and we have clarified sections on the legislation relating to the testing of sight and sale of prescription spectacles to make them clearer in response to feedback received as part of the consultation.</p> <p>However, the GOC cannot engage in public awareness campaigns that do not fall within our core regulatory functions under the Act unless there is sufficient evidence of harm to necessitate such action under the GOC's overarching objective to protect the public.</p>

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	<p>particularly, their records are out of sight and so little is known about cases of actual or potential harm (although the recent AOP survey of registrants' views of returning patients is illuminating in this regard: 80% with eye irritation, 57% with blurred vision and poorly-fitting lenses, 36% with eye infections and even 12% with sight-threatening conditions). 55% of high street practitioners report seeing evidence that the law is being broken by suppliers, so where is the feedback on this in more than simple total numbers? The GOC should determine where the system is being abused by illegal online suppliers, and then take appropriate action in the interests of patient protection.</p> <p>4. With the increasing numbers of online suppliers employing registrants how is the GOC monitoring and auditing them to ensure they are operating within the law? Currently the stated GOC position is passively to wait for complaints to appear - but, as described earlier, there is currently no effective mechanism to do this properly.</p> <p>5. The GOC must heed the widespread and long-held concern in the professions about illegal supply. Its own GOC Registrant Survey 2021 asks the question: 'What is the one priority you would like to see the GOC achieve over the course of its Strategic Plan 2020-25?' Of the 32 listed suggestions, regulating online sales/tackling illegal supply is almost the highest priority, coming second only to the obvious one of supporting/protecting/representing registrants. As we are already half way through the plan, time is not on our side and the GOC should act with urgency.</p>	

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Individual/org	Comment	GOC response
Member of the public (do not publish response)	<p>[REDACTED]</p>	
BCLM (can publish response)	<p>From reading the consultation document there is no evidence how who this will improve sector awareness. Issues such as illegal supply of product without supervision will remain an issue. The GOC needs to consider HOW it will communicate to a wider audience, not just within the professional optical sector. Furthermore the frustrations and threat of illegal online supply to patient/public safety remains. There is a need for legitimate and safe eye care professionals and their practices to collaborate and work together to preserve safety.</p>	<p>Thank you for your comment. As described above, the GOC will continue to raise awareness of our legislation as part of our ongoing approach to illegal practice so that users are aware of the legislation in place to keep them safe.</p> <p>We also recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely</p> <p>As mentioned above, the GOC cannot engage in public awareness campaigns that do not fall within our core regulatory functions under the Act unless there is sufficient evidence of harm to necessitate such action under</p>

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Individual/org	Comment	GOC response
		the GOC's overarching objective to protect the public.
Education provider (can publish response)	The sector is already aware that the GOC is the optical regulator, however while the health sector knows that the GOC will pursue its own registrants, they rest assured that no action will be taken against non-registrants.	Thank you for your comment.
ABDO (can publish response)	The protocol does not clearly explain the GOC's remit in relation to illegal optical practice. In particular, it does not explain the extent to which the GOC will be able to address future challenges, such as sight-tests offered online from outside the UK. Also, the protocol does not explore the challenges involved in pursuing non-UK businesses or individuals, suggesting simply that it would not be able to prosecute such companies. We would like the GOC to consider a more creative approach, including examining whether action against non-UK businesses with UK distribution centres would be feasible and whether a code of practice for online supply would be helpful in enabling patients to gain assurance that they are buying from a reputable supplier. In any case, updating the protocol will not in itself improve awareness of the GOC's remit. More proactive steps would be required to achieve this, including communication with registrants and professional bodies and the publication of data showing performance against objective criteria. In particular, a six-monthly report to the GOC Council would improve transparency and awareness of an area of activity that traditionally has had much less visibility than other	Thank you for your comment. As described above, the Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a UK court. It would also be extremely hard to enforce any conviction or order. In addition, criminal offences relating to supply do not arise at distribution stage - they arise at the point of sale. The Act does not provide the GOC

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Individual/org	Comment	GOC response
	<p>areas, such as the handling of fitness to practise complaints. Such a report could include the number and manner in which illegal cases were addressed and the outcomes achieved. We recognise and very much welcome the progress that the GOC has made in its approach to handling fitness to practise cases and note that the scrutiny applied to this area at Council level has certainly contributed to the improvement in this area. We also wish to make the point that raising awareness of the GOC's remit should not be an end in itself. It would be of more value to raise awareness of how to report illegal practice to the GOC and make it easier to do so via the GOC's website.</p>	<p>with any legislative basis on which to act against distribution centres.</p> <p>We also recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely.</p> <p>For more information please see paras 39-40 of our response to our consultation on illegal practice strategy and protocol.</p>
<p>AOP (can publish response)</p>	<p>We do not believe that the revised protocol on its own will improve sector awareness of the GOC's remit. The structure and clarity of the revised protocol are an improvement from the prosecution protocol published by the GOC in 2015. However, in order to improve sector awareness and provide confidence about the GOC's role for public protection the GOC also needs to credibly engage with professional bodies and registrants about illegal and unsafe practice. The GOC should develop a communications plan to better engage registrants, professional bodies and sector stakeholders about its role and remit in relation to illegal and unsafe practice,. The GOC's current website does not properly explain its role and remit in relation to illegal practice. As a minimum the GOC website should include the following: • Information about the GOC's role for public protection, and the optical regulations relating to services and</p>	<p>Thank you for your comments.</p> <p>We recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely.</p> <p>The GOC cannot engage in public awareness campaigns that do not fall within our core regulatory functions under the Act unless there is sufficient evidence of harm to necessitate such</p>

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Individual/org	Comment	GOC response
	<p>products • What illegal practice is, and clear information about how to raise concerns with the GOC • What the GOC will do to address illegal and unsafe illegal practice The GOC also needs to better explain how it will address the risks of harm to patients that arise from sellers based overseas, and how it will support improved public awareness about the risks of illegal practice to patients. As we have also explained in our answer to question 4, these areas are not sufficiently addressed in the protocol. Registrant concerns about illegal and unsafe practice We know from our engaging with our members that illegal practice is a big source of concern for them. This is why we the AOP launched a campaign in October 2021 to raise awareness about the risks of illegal online supply of contact lenses. When we asked our members for feedback about the revised GOC illegal practice protocol, their concerns focused on the growth of illegal and unsafe online sales of lenses and a lack of confidence in the GOC ability to respond to this. Although we believe that the GOC's action to tackle illegal practice needs improvement, we also know that it does carry out some valuable enforcement action in cases of illegal practice which could lead to harm for patients. Registrants are often unaware of this work, and we think it would be in the interests of the GOC and its credibility as a regulator to better communicate this activity to registrants. AOP campaign: https://www.aop.org.uk/our-voice/media-centre/press-releases/2021/10/20/aop-campaign-tackles-illegal-supply-online</p>	<p>action under the GOC's overarching objective to protect the public.</p>
<p>FODO (can publish response)</p>	<p>We agree the protocol is clear and will help prevent unrealistic expectations which have caused frustration amongst registrants in the past. It is also pleasing that the GOC is seeking to work with online</p>	<p>Thank you for your comment. We know our legislation does not match the realities of the market and are</p>

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Individual/org	Comment	GOC response
	<p>platforms to protect patients. Unfortunately, beyond the protocol the consultation gives no context about what additional powers the GOC would reasonably like to have to help it protect patients against unsafe product sales and services. This bigger picture might better help convince the public and the sector of the GOC’s commitment to address illegal practice wherever feasible.</p>	<p>seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>An extension of our remit through legislative reform will require a clear evidence base linking illegal online supply and risk of harm, or risk of potential harm, to the public. The GOC encourages the sector to provide evidence of harm caused by illegal online supply as part of our call for evidence on the Opticians Act and consultation on associated GOC policies and explain how the evidence base necessitates additional offences and enforcement powers in order for the GOC to protect the public.</p>

To what extent do you agree that the updated protocol will provide clarity on when we will act and what action will be taken? - If you answered ‘disagree’ or ‘strongly disagree’, please explain your reasons.

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Individual/org	Comment	GOC response
<p>Optometrist (can publish response)</p>	<p>Will believe it if you ever actually act at all.</p>	<p>Thank you for your comment. Please see paras 51 and 52 of our response to our consultation on illegal practice strategy and protocol. We received some comments that the protocol was drafted with a bias towards not acting. We have revised the drafting and believe that it balances the need for public protection with a proportionate, risk-based approach. We have also added a provision stating that a complaint referred to a third party may be re-opened if the third party does not act and the statutory time limit for bringing a prosecution for a summary only offence has not expired.</p>
<p>Dispensing Optician (can publish response)</p>	<p>Uncertainty until you actually act on internet sales.</p>	<p>Thank you for your comment. Please see paras 51 and 52 of our response to our consultation on illegal practice strategy and protocol. We received some comments that the protocol was drafted with a bias towards not acting. We have revised the drafting and believe that it balances the need for public protection with a proportionate,</p>

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Individual/org	Comment	GOC response
		<p>risk-based approach. As mentioned above, there are practical and enforcement challenges in enforcing UK legislation against non-UK businesses.</p>
<p>Optometrist (can publish response)</p>	<p>If it is on a case by case basis and has to be complained about to pursue, this allows so many unregulated contact lens sales , as Px feel it is great they can order what they want online when they want. The websites like [REDACTED] blatantly disregard the rules and advertise that you can buy lenses without a prescription as it is up to you if you want your prescription verified and they trust that you the px know what you are doing which is quite frankly ridiculous. Majority of px get issued a proper specifications and then buy an significantly unspecified product because it is cheaper and there is virtually no education out there.</p>	<p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with.</p> <p>We know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p>
<p>BLM (can publish response)</p>	<p>We consider the protocol to be clear in terms of when the GOC will consider taking action. We query whether the GOC would have the necessary funds available to bring a prosecution should that be required. We would also be interested to know whether such a prosecution has been brought in the past. We anticipate that circumstances which would require such action to be taken would be relatively rare as the GOC would need to have jurisdiction and it appears that a prosecution would only be</p>	<p>Thank you for your comments.</p> <p>The GOC has brought three private prosecutions in the past – one in 1998, one in 2008 and one in 2009.</p>

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Individual/org	Comment	GOC response
	<p>brought where the individual or business continued to act in contravention of the Opticians Act following a cease and desist letter and where there was a genuine risk to the public.</p> <ul style="list-style-type: none"> • We note that the protocol favours taking alternative action wherever possible, which is understandable given the costs of bringing a prosecution and the need to manage expectations. • As set out above, it is anticipated that the majority of online sales will be made by businesses operating outside of the UK, in respect of which the GOC will have no jurisdiction. 	
<p>College of Optometrists (can publish response)</p>	<p>We agree that the updated protocol will provide clarity on when the GOC will act and what action will be taken, however, This may not be possible if a case, being adjudged to be lower risk, has been closed or referred elsewhere at an earlier stage. Furthermore, it is not clear which cases may be judged as suitable for referral to Trading Standards and what the GOC would do if no positive outcome is reported by Trading Standards. The GOC should be able to reopen a case if Trading Standards are not able to act or not able to act successfully. We recommend the protocol to include such provision. Finally, as mentioned in our responses to questions five and six above, the GOC should clarify its position in relation to non-UK businesses and individuals as the protocol only suggests that in no circumstances it will be possible to take any formal action against such businesses and individuals. It should instead include a list of potential actions the GOC could take as a minimum.</p>	<p>Thank you for your comments. Please see para 52 of our response to our consultation on illegal practice strategy and protocol. We have added a provision stating that a complaint referred to a third party may be reopened if the third party does not act and the statutory time limit for bringing a prosecution for a summary only offence has not expired.</p>

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Individual/org	Comment	GOC response
<p>ABDO (can publish response)</p>	<p>The updated protocol will provide some clarity about when the GOC will act and what action will be taken. However, several questions remain. It is not clear what is the significance of the GOC adjudging that a case carries a higher risk in line with the factors set out in paragraph 3.10 – intent to misuse a protected title, offences involving vulnerable patients and actual – and how this informs the GOC’s assessment decision. Presumably in cases that are adjudged to be lower risk, there is more likely to be a recommendation that no further action should be taken by the GOC. This would be problematic in that the public interest test criteria include potential harm, meaning that it could be in the public interest to prosecute a case where there is potential but not actual harm. However, this will not be possible if the case has been closed or referred elsewhere at an earlier stage. It is also not clear which cases may be judged as suitable for referral to trading standards and what the GOC will do in such cases if trading standards do not report a positive outcome. The protocol should be amended to make provision for the GOC to reopen the case if trading standards are not able to act or not able to act successfully. Given that the priorities of trading standards departments are decided on a local level and that their funding has been very constrained in recent years, the GOC should not assume that referral to trading standards will guarantee a successful outcome. As mentioned above, the GOC should also clarify its position in relation to non-UK businesses and individuals as the protocol suggests that in no circumstances will it be possible to take any formal action against such entities.</p>	<p>Thank you for your comments. For more information, please see paras 51 and 52 of our response to our consultation on illegal practice strategy and protocol. We received some comments that the protocol was drafted with a bias towards not acting. We have revised the drafting and believe that it balances the need for public protection with a proportionate, risk-based approach. We have also added a provision stating that a complaint referred to a third party may be re-opened if the third party does not act and the statutory time limit for bringing a prosecution for a summary only offence has not expired.</p> <p>As mentioned earlier, the Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a UK court. It would also be extremely hard to enforce any conviction or order.</p>

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Individual/org	Comment	GOC response
AOP (can publish response)	The updated protocol certainly provides improved clarity about the GOC's approach in comparison to the current prosecutions protocol. It more clearly sets out the case management approach the GOC will take in managing concerns, the different decision available for cases, and the criteria for taking actions. However, as we have explained in our answers to questions 2 and 4 there are areas missing from the protocol that the GOC still needs to address.	Thank you for your comments.
FODO (can publish response)	The protocol is clear in terms of when and how the GOC will consider taking action although, as noted, it reads overall as if there is a bias towards not taking action if at all possible. There is clearly a drafting problem here which should be amended in the final version.	Thank you for your comments. For more information, please see paras 51 and 52 of our response to our consultation on illegal practice strategy and protocol. We received some comments that the protocol was drafted with a bias towards not acting. We have revised the drafting and believe that it balances the need for public protection with a proportionate, risk-based approach. We have also added a provision stating that a complaint referred to a third party may be re-opened if the third party does not act and the statutory time limit for bringing a prosecution for a summary only offence has not expired.

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Is there anything unclear or missing in the updated protocol? - If you answered 'yes', please give details.

Individual/org	Comment	GOC response
<p>Business registrant / employer (can publish response)</p>	<p>What will happen, to non optical sales of contact lenses. Such as “cosmetic contact lenses “, and also companies who see fit , to substitute their lenses, from what was prescribed.</p>	<p>Thank you for your comment. Each case will be assessed in accordance with the assessment criteria set out in part three of the updated protocol.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with. We recognise we need to communicate more effectively and more widely about our remit and approach to illegal practice and will consider how best this can be achieved.</p> <p>For more information, please see paras 45-48 of our response to our consultation on illegal practice strategy and protocol.</p>

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Individual/org	Comment	GOC response
Business registrant / employer (can publish response)	Distribution centers in the UK with parent companies outside the UK will once again get a free pass. You have not addressed the problem.	Thank you for your comments. The Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a UK court. It would also be extremely hard to enforce any conviction or order. In addition, criminal offences relating to supply do not arise at distribution stage - they arise at the point of sale. The Act does not provide the GOC with any legislative basis on which to act against distribution centres.
Optometrist (can publish response)	It needs to be very clear that online sales along with physical sales are included. How will you deal with online sales from non-uk websites. Also the risks of online sales for both Contact lenses and glasses needs to better communicated to the public	Thank you for your comments. The Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a


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Individual/org	Comment	GOC response
		<p>UK court. It would also be extremely hard to enforce any conviction or order.</p> <p>The GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC's overarching objective to protect the public.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with.</p>

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Individual/org	Comment	GOC response
Optometrist (do not publish response)	[REDACTED]	
Optometrist (can publish response)	Needs to be mor positive. "We WILL act when we see evidence of illegal practice"	Thank you for your observation. We received some comments that the protocol was drafted with a bias towards not acting. We have revised drafting and believe that it balances the need for public protection with a proportionate, risk-based approach.
Dispensing optician (can publish result)	ALL medical devices purchased by a member of the UK Public need to be made illegal if the seller does not follow UK laws and request the legal documents (such as a signed copy of a sight test prescription), because on many cases this does not happen!!!	<p>Thank you for your comments.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with.</p> <p>We know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p>

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Individual/org	Comment	GOC response
Optometrist (can publish response)	It is far too vague	Thank you for your observation.
Optometrist (do not publish response)		
BLM law (can publish response)	<ul style="list-style-type: none"> • We are unclear as to whether all decisions will be referred to a lawyer. Paragraph 3.14 states that a lawyer will check each stage of the process to ensure correct application of the legislation but paragraph 3.38.5 states that if the risk warrants further investigation, the matter should be referred to a lawyer for review. We are not therefore clear as to who would make the decision as to whether the risk warrants investigation. If it is intended that members of the triage team will make this decision, they will need to receive appropriate training. It is our view that a lawyer should be involved in any decisions regarding illegal practice. 	Thank you for your comments. Please see para 55 in our response to our consultation on illegal practice strategy and protocol. It is our view that all decisions relating to illegal practice should be referred to a lawyer for review for consistency and to ensure correct application of the legislation. We consider the protocol is appropriately worded to implement this approach.

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Individual/org	Comment	GOC response
Optometrist (can publish response)	Your own timescales for action need to be published	Thank you for your comment. Please see para 54 in our response to our consultation on illegal practice strategy and protocol. We will consider our timescales for action as part of our illegal practice objectives.
ACLM (can publish response)	All parties, including the GOC, have acknowledged for some time that the Optician' Act is not fit for purpose, certainly so far as contact lenses are concerned, but what is being done to remedy this? The reported review of optical legislation in 2022 will be most welcome, but how will this draft protocol fit with it? How, for example, will the enforcement of 'replication' and the banning of inappropriate contact lens substitution (clearly written and intended in the Opticians' Act but strangely unenforceable) be handled? The view of experts is that substitution may result in undesirable consequences in respect of vision, ocular health, comfort and cosmetic appearance, and may be incompatible with the lifestyle of the patient. While the USA bans contact lens substitution the UK allows it to take place. It is this and other differences between jurisdictions which allows overseas online suppliers to exploit loopholes in national laws, and which makes it even more important for the GOC to pursue public protection and public awareness campaigns year after year. Currently, they are just not in evidence. It may be better for the protocol to be delayed until after the new regulations are in place, an illegal online strategy is developed, and then updated to better effect.	<p>Thank you for your comments.</p> <p>We know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>The GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC's overarching objective to protect the public.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of</p>

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Individual/org	Comment	GOC response
		<p>our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with.</p>
<p>Member of the public (do not publish response)</p>	<p>[REDACTED]</p>	
<p>BCLM</p>	<p>How will the GOC put this into action and communicate it outside of optics? (including to the public) Also, this issue of substitution has not been addressed. This is something that many registrants talk about, but cannot prove to the GOC, as it requires the patient to provide the information. The potential of the GOC to carry out test purchases is welcomed, but we will have to wait and see. There are still gaps in the Optician’s Act that do not cover supply of contact lenses sufficiently.</p>	<p>Thank you for your comments. We recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are</p>

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Individual/org	Comment	GOC response
		<p>aware of the legislation that must be complied with.</p> <p>We know our legislation does not match the realities of the market and welcome your views on areas of the Act that you feel are insufficient as part of our call for evidence to support any case for retaining or changing legislation.</p>
<p>ABDO</p>	<p>We note that the protocol specifies the need for a risk assessment to be carried out on receipt of a complaint and says that this will be carried out by the case assessor with legal input. There should also be a requirement to seek clinical input in appropriate cases. We also note the protocol refers to Annex A, which was not included with the published version. We would also like the GOC to seek statutory powers of investigation and enforcement as part of the Government’s regulatory reform programme. Paragraph 3.5 of the protocol states that, “A complaint may be closed if we are unable to obtain information to substantiate an investigation.” To avoid this outcome, the GOC should seek powers to require information to be provided. It is also incongruous for the GOC, as the statutory regulator for the optical professions, to be in a position where in relation to illegal optical practice it is limited to pursuing a private prosecution in the</p>	<p>Thank you for your comments. We have made provision in the updated protocol for advice to be sought from the GOC’s clinical advisers about clinical risk in appropriate cases. Please see para 37 of our response to our consultation on illegal practice strategy and protocol for more information about the changes made in response to comments received in the consultation.</p> <p>An extension of our remit through legislative reform will require a clear evidence base linking illegal online</p>

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Individual/org	Comment	GOC response
	Magistrates court. This should be rectified, with the prospect of legislative reform providing an opportunity to do so.	supply and risk of harm, or risk of potential harm, to the public. The GOC encourages the sector to provide evidence of harm caused by illegal online supply as part of our call for evidence on the Opticians Act and consultation on associated GOC policies and explain how the evidence base necessitates additional offences and enforcement powers in order for the GOC to protect the public.
Optometrist (can publish response)	Section 5.2 We will generally only consider bringing a prosecution in cases where one or more of the following factors are present: 5.2.3 significant risk of harm; Although “risk of harm” is called out as a determining factor for prosecution, there is no clear definition of what constitutes risk of harm within this context.	Thank you for your comment. Please see para 56 of our response to our consultation on illegal practice strategy and protocol. Fairness demands that cases are assessed on a case-by-case basis and a definition of harm would add an unfair element of objectivity to a test that demands subjectivity based on the facts of the case. We have, therefore, not included a definition of harm in the updated protocol.

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Individual/org	Comment	GOC response
<p>AOP (can publish response)</p>	<p>We are supportive of some of the changes that have been made to the GOC’s illegal practice protocol. The overall structure and clarity of the document are an improvement on the current protocol for prosecutions. We also welcome the inclusion of an acceptance criteria, the listing of the full set of offences under the Opticians Act, the process for test purchases and provision for referral to other complaints bodies. However, there are several areas where the draft protocol needs improvement:</p> <ul style="list-style-type: none"> • It needs to include optometric/clinical advice in the process, particularly at initial risk assessment. • The protocol needs to be framed in a way that covers illegal practice in the forum of optical services as a well as products. • More needs to be done to protect the public from Illegal and unsafe online supply from non-UK sellers , taking enforcement action where overseas sellers use UK distribution centres. • The GOC needs to do more to raise public awareness about the risks of harm from illegal practice, and provide advice about how to identify optical providers operating under UK regulations. <p>Optical products illegally supplied online from non-UK sellers We appreciate that it is not possible for the GOC to undertake prosecutions against sellers which are operating illegally and based outside the UK. However, the GOC should do more to protect the public from harm. Where an overseas business appears to be supplying illegally to people in the UK – and particularly where its website gives the impression the business is based in the UK – we think that as a minimum, the GOC should contact the supplier to highlight UK optical regulation and, where</p>	<p>Thank you for your comments. Please see para 37 of our response to our consultation on illegal practice strategy and protocol for a summary of the changes made to the protocol following feedback received during the consultation which include:</p> <ul style="list-style-type: none"> • Including potential for harm as a factor indicating higher risk in addition to actual harm caused by illegal practice • seeking advice from the GOC’s clinical advisers about clinical risk in appropriate cases • provision that the GOC may re-open a complaint following a referral to a third party if the third party is unable to act and the statutory time limit for bringing a prosecution has not expired • making sections relating to the testing of sight and sale of prescription spectacles clearer <p>As mentioned above, the GOC cannot engage in public awareness</p>

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Individual/org	Comment	GOC response
	<p>relevant, local enforcement authorities to try to resolve the matter. The GOC should also revisit the use of an optical sector code or kitemark to provide assurance to the public about providers which are operating within UK regulation. The GOC also needs to include provisions in the protocol for enforcement where sellers are based overseas but use distribution centres in the UK, especially where sellers are basing part of their operation overseas to deliberately circumvent UK regulations. This should include contact with the distribution centre to inform them about operating within UK regulations, cease and desist notices, engagement with the MHRA to review the distribution centre’s registration and in serious cases consideration of prosecution. Raising public awareness of risks from illegal and unsafe practice The consultation document says the GOC intends to improve public awareness of the GOC’s remit in relation to illegal practice and to link its overall strategy to its objective for public protection. In our opinion, to achieve this the GOC must also commit to undertaking activity which raises public awareness about the risks of harm that can arise from illegal and unsafe practice and how they can purchase optical devices, products and services safely from regulated sources. There is a growing need to educate the public about the risks of buying contact lenses and spectacles online, particularly from sellers based abroad who may be operating outside the assurance provided by UK regulation. . The GOC needs to make the public aware that when they buy optical products from overseas, these may not be subject to the regulatory assurance that is provided in UK law to keep them safe.</p> <p>As we have called for previously, the GOC should publish information for patients and the public in the UK about the benefits of sourcing contact</p>	<p>campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC’s overarching objective to protect the public.</p> <p>As also mentioned, the Opticians Act applies only in the UK. It is difficult to use UK law to prosecute an overseas company even where the purchaser is in the UK. There would be practical problems in presenting a hearing without the power to compel the defendant to attend a UK court. It would also be extremely hard to enforce any conviction or order. In addition, criminal offences relating to supply do not arise at distribution stage - they arise at the point of sale. The Act does not provide the GOC with any legislative basis on which to act against distribution centres.</p> <p>An extension of our remit through legislative reform will require a clear</p>

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	<p>lenses from suppliers that comply with UK legal requirements. This could include explaining:</p> <ul style="list-style-type: none"> • the role of optical professionals and sight testing in identifying eye disease. • how buying optical appliances from unregulated sources can lead to risks of harm. • how contact lenses can be substituted by suppliers, and when this is appropriate and safe and when it is not safe • how to identify eye care providers and suppliers that meet UK legal requirements. Educating the public about safe eye care from regulated sources will become increasingly important as technology allows eye care services as well as products to be delivered remotely. The AOP recently published a suite of campaign material about the risk of illegal online supply of contact lenses: https://www.aop.org.uk/our-voice/campaigns/why-gamble Research conducted for AOP with 2000 UK adults and published in October 2021 alongside our campaign further illustrates the importance and urgency of raising public awareness: <ul style="list-style-type: none"> • Just under half (45%) of contact lens wearers are unaware that some online suppliers of contact lenses do not comply with UK safety regulations, rising to 55% of women and 78% of over 55-year olds. • Over one in ten UK adults bought contact lenses during lockdown (13%) and after lockdown restrictions were eased (13%). • Two-thirds (67%) who purchased contact lenses online experienced an issue with these lenses. Nearly one in five (18%) had experienced eye 	<p>evidence base linking illegal online supply and risk of harm, or risk of potential harm, to the public. The GOC encourages the sector to provide evidence of harm caused by illegal online supply as part of our call for evidence on the Opticians Act and consultation on associated GOC policies and explain how the evidence base necessitates additional offences and enforcement powers in order for the GOC to protect the public.</p>

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	<p>irritation or a poor fitting with these lenses. Another 17% reported that the lenses they bought online had led to permanent eye damage and 15% said they had a painful eye condition that required urgent treatment. https://www.aop.org.uk/our-voice/media-centre/press-releases/2021/10/20/optometrists-warning-over-illegal-and-unsafe-contact-lenses-as-online-buying-soars Specific comments on the content of the protocol There are also a number of specific areas within the draft illegal practice protocol which need improvement or revision.</p> <ul style="list-style-type: none"> • Our experience has been that the GOC responds to the complainant to advise them what actions it has taken, but this should be included in the protocol for clarity. • 3.3.2 – ‘close and refer to another body’ – the GOC should only close the case once the referral has been accepted by the other body and explore alternative action if this is not possible. • 3.9 – the risk assessment described here must include advice from an optical registrant and this commitment should be included in the protocol. This is vital to ensuring that all risks to patients and the public are accurately captured as part of the assessment. • 3.10 – this list of factors which indicate areas of higher risk is reasonable. However, the GOC must also include ‘risks of harm to patients and the public from illegal practice’ as a factor, even where actual harm has not been identified, as sufficient ground for proceeding to the investigation stage. This should be made explicit in the protocol. We note that the current GOC protocol for prosecutions (p5) lists risk of harm to a patient as a factor to be included in its public interest and that recent 	

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	<p>GMC evidence to the GOC about illegal practice describes potential ground for action as ‘... where actual harm has occurred to patients, but potential harm to patients is equally relevant.’ https://www.gmc-uk.org/-/media/documents/gmc-response-to-goc-illegal-practice-strategy-review---may-2021-86504034.pdf</p> <ul style="list-style-type: none"> • 3.14 – we welcome lawyer input being required for each stage of the process. However, the protocol should also state that optometrist/clinical input will be sought where necessary. • 3.16 needs revision for accuracy - “Sight testing is defined in section 36(2) of the Act as assessing visual acuity and health of the eye and issuing a prescription if appropriate.”. Whilst this is a commonly used wording, it does not accurately reflect what is in the Opticians Act 36(2): “...testing sight with the object of determining whether there is any and, if so, what defect of sight and of correcting, remedying or relieving any such defect of an anatomical or physiological nature by means of an optical appliance prescribed on the basis of the determination.” A clearer legally based definition is required here because it also has relevance for Fitness to Practice. Previous case examples of FtP panel views could be used to inform this wording • 3.17 – ‘dispensing optician’ should be replaced here with ‘contact lenses optician’ as DOs require this specialist registration to fit contact lenses • 3.18 - it needs to be specific that this applies to ‘spectacle prescriptions’ • 3.21 should be amended as follows: “Caselaw requires that the supervisor must be on the premises at the time of the dispense sale, exercising their professional judgement as a clinician and in a position to 	

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	<p>intervene if necessary by exercising their professional judgement as a clinician in the patient’s interests.” The part of the process which requires supervision is the dispense, rather than the sale (which doesn’t necessarily take place at the same time). Supervisors don’t need to be aware of every dispense to a restricted group which is taking place; they simply need to be available should the need arise.</p> <ul style="list-style-type: none"> • 3.24 – this can be deleted as It isn’t necessary to include this historical provision from 1984, because it’s been superseded by subsequent changes in legislation, and non-registrants can now supply spectacles against a valid spectacle prescription for any purpose, provided the patient isn’t in a restricted group (under 16 or sight-impaired). • This should be amended as follows: 3.25 Otherwise, anyone can sell spectacles in accordance with a prescription issued within two years provided the patient is not in a restricted group (i.e., under 16 or sight-impaired) subject to additional requirements for spectacles with certain prescriptions set out in article 3(3) of the Order” This is necessary because the ‘additional requirements’ in The Sale of Optical Appliances Order of Council 1984 lists three requirements, and the first two of these apply to all spectacles (not just those with ‘certain prescriptions’). • 3.27, 3.28.3.29 and 3.30 – these clauses could be framed more succinctly as follows: 3.27 Zero-powered contact lenses and contact lenses for patients in a restricted group (i.e., under 16s or sight-impaired) can only be sold by or under the supervision of a registered dispensing optician, registered optometrist or registered medical practitioner. 	

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	<p>3.28 Otherwise, contact lenses can be sold under the general direction of a registered dispensing optician, registered optometrist or registered medical practitioner, who need not be on the premises at the time. If the supplier doesn't have the original specification, they must verify the specification with the prescriber. • 3.38.1 – it is right that the GOC contact online platforms where listings of illegal sold products are identified - to seek their removal. However, cases should only be closed: o If the seller is based in the UK, once the seller has been advised about operating within UK law, and once an assessment has been made about whether the risk warrants further investigation. o If the seller is based outside the UK, once the listing has been removed.</p> <ul style="list-style-type: none"> • 3.38.4 –we do not think it is sufficient for the GOC to simply close cases of alleged illegal practice where there is risk of harm to the public simply because actual harm has not been identified. We have set out some steps the GOC should include in its protocol in the section above. • 4.1.4 – the wording for test purchases should be widened to also include 'optical care services', as cases of alleged illegal practice could also include online refraction or sight test services which are delivered in a way that may breach the Opticians Act. • 5.1.1 – the GOC needs to explain in what circumstances 'no action' is determined, and this would presumably be in cases where the investigation has concluded that there is no illegal or unsafe practice. • 5.3 – it is of course right that the Registrar should have regard to public protection in prosecution decisions. However, it is not clear why this could 	

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	<p>lead to a decision not to undertake proceedings, an example of this circumstances is needed here.</p> <ul style="list-style-type: none"> • 5.8 and 5.9 subclauses – It is correct that the Registrar decision to undertake proceeding should be based on the interests of the public rather than the optical sector, these will often coincide. The statement rightly asks the Registrar to give consideration to ‘public confidence in the profession’, and we think that ‘overall confidence in the system of optical regulation’ should also be included here. This is because taking actions which can prevent the credibility of regulation from being undermined will also support public protection e.g., from persistent offending, or illegal practice which damages the optical sector’s ability to provide effective eye care to patients. • 5.17 – this should also include a reference to taking optometric/clinical advice 	
<p>FODO (can publish response)</p>	<p>In addition to our points about ‘effectiveness’ in response to Question 1 – we believe that</p> <p>a) the focus on ‘actual harm’, although understandable in managing expectations, is nevertheless limiting and unsafe and that, in some cases ‘potential for harm’, may pose a greater risk to the public. We suggest ‘potential for harm’ be added as a criterion (paragraphs 3.10.3 and 5.2.5)</p> <p>b) as well as lawyer input (paragraphs 3.11 and 3.14) which we welcome, the case office should also have access to professional advice in respect of risk</p>	<p>Thank you for your comments. Please see para 37 of our response to our consultation on illegal practice strategy and protocol for a summary of the changes made to the protocol following feedback received during the consultation which include:</p> <ul style="list-style-type: none"> • including potential for harm as a factor indicating higher risk in

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	<p>c) the fact that sight-testing includes the immediate vicinity of the eye should be included for completeness (paragraph 3.16)</p> <p>d) the definition of supervision reads rather oddly (paragraphs 3.21 and 3.31). Would “on the premises and in a position to intervene and use their professional judgement as a clinician in the patient ‘s interest” be better?</p> <p>e) if illegal practice is not found but the case referred to FtP (paragraph 3.39.3), in fairness, the case should be assessed with completely fresh eyes</p> <p>f) it would be helpful to explain why reputational damage (paragraph 5.2.4) presents a risk to the public i.e. it could undermine public confidence in coming forward for eye care (cf paragraph 3.9)</p> <p>g) it is important that decisions to prosecute or not to prosecute (paragraph 5.12) are discussed by the Council in public session – albeit in aggregate and anonymised form - rather than being buried in papers. This would enable Council members to demonstrate improved oversight of the issue and stakeholders to build an understanding of where the GOC’s powers might need to be strengthened</p> <p>h) there is no justification for not including all protected characteristics (paragraph 5.9.6)</p> <p>i) the Registrar should be able to issue criminal proceedings where there is sufficient evidence for a realistic prospect of conviction against at least one defendant on one charge (paragraph 5.5). Requiring ‘realistic prospect’ against all defendants on all charges is unduly limiting of the Registrar’s ability to take action to protect the public</p>	<p>addition to actual harm caused by illegal practice</p> <ul style="list-style-type: none"> • seeking advice from the GOC’s clinical advisers about clinical risk in appropriate cases • making sections relating to the testing of sight and sale of prescription spectacles clearer

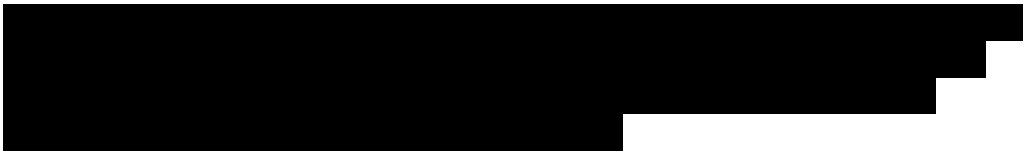
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	j) Annex A should have been included.	

Are there any aspects of the updated protocol that could discriminate against stakeholders with specific characteristics? (Please consider age, sex, race, religion or belief, disability, sexual orientation, gender reassignment, pregnancy or maternity, caring responsibilities or any other characteristics.) - If you answered 'yes', please give details.

Individual/org	Comment	
Business registrant / employer (can publish response)	A useful point on gender identity would it be easier and less confusing to ask has your gender changed from your birth identity. This relates to the final questions and not the protocol, as I saw no obvious gender issues.	Thank you for your comment.
Optometrist (do not publish response)	[REDACTED]	
ACLM (can publish response)	Most definitely yes – on caring responsibilities. High street practitioners are required to carry out all the testing and pre-sales work, including trial fittings and producing and handing over a contact lens specification, only to see, in very many cases, the potential patient lost to an illegal online supplier. The patient is very unlikely to return to the high street. This has a very corrosive effect on the high street safety net and provides a strong disincentive for all but the most determined practitioners to engage in contact lens fitting. There is no assurance that online suppliers are	Thank you for your comment. Please see para 58 of our response to our consultation on illegal practice strategy and protocol. The protocol sets out current legislation which offers greater safeguards for restricted categories (under 16s and those registered sight impaired). We are working with online

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	<p>processing applications from minors or those with learning difficulties adequately, and certainly no way of ensuring that the requirements of 'supervision' are being met (where the practitioner is on site and in a position to intervene). There is no point in having rules or guidelines which cannot be overseen and enforced where appropriate. With the expected inclusion of non-prescription contact lenses into the category of medical device it is even more important that the law is vigorously maintained and the public is kept informed of the dangers inherent in unrestricted illegal online supply.</p>	<p>suppliers to ensure awareness of our legislation and notification of the relevant legislation to their customers.</p>
<p>Member of the public (do not publish response)</p>		
<p>BCLM (can publish response)</p>	<p>Age Many online suppliers will carry out orders to those under the age of 16. A partial solution would be the requirement of suppliers to require evidence of a valid specification, which should have a date of birth on it. Again, test purchases may help, but the issue here is that of those suppliers operating from outside the UK. The supply of zero powered 'cosmetic' contact lenses is also an area that is of grave concern. Although in recent years there has been some public health awareness about these lenses.</p>	<p>Thank you for your comment. Please see para 58 of our response to our consultation on illegal practice strategy and protocol. The protocol sets out current legislation which offers greater safeguards for restricted categories (under 16s and those registered sight impaired). We are working with online suppliers to ensure awareness of our legislation and notification of the relevant legislation to their customers.</p>
<p>ABDO (can publish response)</p>	<p>There should be greater focus on ensuring that the process for reporting possible instances of illegal practice is as accessible and inclusive as possible, including for members of the public with any of the relevant</p>	<p>Thank you for your comments. Please see para 59 of our response to our consultation on illegal practice strategy</p>

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	<p>characteristics. It should not be necessary to download and complete a long word form that assumes considerable knowledge of illegal practice. The GOC should also make clear that it welcomes input from the public, whereas the form does not even appear to consider that a member of the public might want to raise an issue – as shown in the following extract seeking information from the complainant: “Which of these best describes you? Please select one option by putting a cross in the relevant box.</p> <p>a. <input type="checkbox"/> Trading Standards Officer</p> <p>b. <input type="checkbox"/> Employee or officer of a public body (other than Trading Standards), the GOC or another regulator</p> <p>c. <input type="checkbox"/> GOC or GMC registrant</p> <p>d. <input type="checkbox"/> Journalist or other press/media freelance/employee</p> <p>e. <input type="checkbox"/> None of the above” The fact that a member of the public falls into the category of ‘none of the above’ does not suggest that the GOC welcomes or is keen to encourage the public to raise issues with them.</p>	<p>and protocol. We will update the complaint form accordingly and publish it on our website.</p>
<p>FODO (can publish response)</p>	<p>Only ‘Age and infirmity’ are listed as factors that might be relevant to the public interest test (paragraph 5.9.6) but this would apply to all protected characteristics.</p>	<p>Thank you for your comment.</p> <p>Paragraph 10 of the updated protocol is a non-exhaustive list of factors that might be relevant to the public interest test.</p>

Are there any aspects of the updated protocol that could have a positive impact on stakeholders with specific characteristics? (Please consider age, sex, race, religion or belief, disability, sexual orientation, gender reassignment, pregnancy or maternity, caring responsibilities or any other characteristics.) - If you answered ‘yes’, please give details.

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Business registrant / employer (can publish response)	I think it brings clarity, and long overdue justice. I look forward to seeing this in practice , and I think the profession , as a whole, would be interested , in seeing this in practice. Just so people know, what will happen in the real world situation. So it would be worth highlighting some popular cases. It would also, be useful to get feedback, on the implementation, so it can be adjusted. Also a short review period, so registrants, can comment on the implementation. As I feel this will , progress the agenda in a positive, and engaging manner.	Thank you for your comments. We recognise the need to develop a communications plan as part of this work and will consider how best to share information on our approach to and action against illegal practice more widely.
ACLM (can publish response)	The ACLM is hopeful for a result from the GOC’s stated intentions regarding ‘public awareness’ and a ‘proactive approach’: 1.5 ... We believe we can better use our resource to develop a strategy that links more closely with our overarching public protection function and also enhance sector and public awareness of our remit. 1.6 ...we want to be more proactive in our approach to illegal practice. The ACLM is more than willing to support these intentions in any way possible.	Thank you for your comments.

Are there any other impacts of the updated protocol that you would like to tell us about? - If you answered ‘yes’, please give details.

Individual/org	Comment	GOC response
Business registrant / employer (can publish response)	What, if any relationship does optics through the GOC have with trading standards.	The GOC works with other enforcement agencies, including with Trading Standards who have statutory powers in relation to sales from ‘bricks and mortar’ outlets and online suppliers based in the UK. If the

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		<p>GOC's contact does not result in cessation of the alleged offence, we notify Trading Standards so that they can consider whether to take action under their powers. We support such action by providing clarification on the requirements of the Opticians Act.</p> <p>We have added a provision in the updated protocol stating that a complaint referred to a third party may be re-opened if the third party does not act and the statutory time limit for bringing a prosecution for a summary only offence has not expired.</p>
<p>Optometrist (can publish response)</p>	<p>I do hope that the updated protocol results in online retailers having to adopt the same standards as bricks-and-mortar practices ie only dispensing contact lenses or spectacles to a physical prescription. My impression is that anyone can order contact lenses or spectacles of any type and prescription from numerous websites merely by typing in whichever prescription they want. Only this week I have seen a patient who ordered a pair of -1.50 (MINUS 1.50D) spectacles from [REDACTED] "for driving". Today, I have been able to order lenses from [REDACTED] having not worn their lenses before and without a providing evidence of a prescription. I think they must be laughing at your impotence.</p>	<p>Thank you for your comments.</p> <p>We know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>For more information, please see paras 45 to 48 of our response to our consultation on illegal practice strategy and protocol.</p>

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Optometrist (do not publish response)	<p>[REDACTED]</p> <p>[REDACTED]</p>	
Optometrist (can publish response)	<p>Have a dedicated form that optometrists etc can quickly fill out on the website to report concerns.</p>	<p>Thank you for your comment. Please see para 59 of our response to our consultation on illegal practice strategy and protocol. We will update the complaint form accordingly and publish it on our website.</p>
CLO (can publish response)	<p>You are too late, the online selling horse has not only bolted it is retired in a field. I am sick of carefully fitting px and following the rules, only for it to be sabotaged by them buying substitutes online. Px go for years without care. I have had children in, parents have bought them crap like [REDACTED] doesn't fit, overworn, child has severe neovas. Parent thinks I am just 'selling'! Of course, the big multiples would love contact lenses to be deregulated, more money for them! I have recently seen a missive from my HO , suggesting CLO be more ' pragmatic ' about giving lenses to px who are out of date on sight tests & aftercare. It's a farce, and it's the GOC fault, you should have tackled the platforms like [REDACTED] etc years ago.</p>	<p>Thank you for your comments.</p> <p>We know our legislation does not match the realities of the market and are seeking views and evidence in the call for evidence to support any case for retaining or changing legislation.</p> <p>For more information, please see paras 45 to 48 of our response to our consultation on illegal practice strategy and protocol.</p>

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<p>BLM law (can publish response)</p>	<ul style="list-style-type: none"> • It is agreed that early lawyer input is essential. • There is the example given of closing a case at stage 1 if there is inadvertent misuse of a title due to forgetting to retain registration at the end of the retention period. It is helpful for this clarity to be provided. We note that in such circumstances, the individual would need to apply for restoration to the register and we presume that any issues regarding the failure to renew would be addressed as part of that process. • It is agreed that it is appropriate to refer cases to the ASA where advertising is involved. We note that the GOC previously took action from a fitness to practise perspective following an ASA determination. • The protocol states that cases of illegal sales of spectacles or contact lenses may be suitable for referral to Trading Standards. Is it anticipated that these matters would also be considered from a fitness to practise perspective or is this aimed at non-registered businesses? • The protocol states that for non-UK businesses or individuals, if the matter cannot be referred elsewhere, the case will be closed. We note that a significant proportion of online sales of spectacles and contact lenses are likely to occur outside of the UK. • There is reference to closing matters and referring them to the fitness to practise team. We would query whether it would be the same triage team considering these cases as the team considering fitness to practise concerns. Again, appropriate training will be required for those dealing with suspected illegal practice. 	<p>Thank you for your comments.</p> <p>Please see para 63 of our response to our consultation on illegal practice strategy and protocol regarding referral of a business to Trading Standards.</p>

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College of Optometrists (can publish response)	As mentioned in our response to question five above, the updated protocol should be part of a wider illegal practice strategy. This will increase the positive impact of the updated protocol.	Thank you for your comments. As mentioned above, we understand that the protocol is not, of itself, a strategy but is part one of the review of our approach to illegal practice.
Optometrist (can publish response)	The need to tackle unregistered sales of contact lenses and ready made spectacles for myopia	Thank you for your comments. As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with.
ACLM (can publish response)	Online supply continues to grow fast, in the same way as ██████ has grown to undermine the high street of its retail shops. When out of sight, protected by being registered overseas even while operating in the UK, no longer required to keep contact lens skills up to date and often working alone so unable to exchange views with peers in practice, it is easy to visualise many areas where patients are not being properly looked after. With 45% of the public admitting it is unaware of the legal loopholes in the law we have a very badly functioning market place which is often unable	Thank you for your comments. The GOC's remit regarding action against illegal practice, from deciding whether to open an illegal practice case following an allegation of illegal practice (covered by the protocol) or engaging with a wider audience about

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	<p>to provide continuous patient care or to identify and rectify its mistakes. In conclusion, it is all very well for the GOC to trumpet its legally watertight, low risk protocol for dealing with illegal practice but it is effectively excusing itself from robust action at the start of the process and is therefore highly unlikely to achieve the result required. The limitations are well-understood, but what the optical world needs is an outward-looking strategy and not an inward-looking protocol. People are dropping out of contact lens wear, probably 30% every 3 years according to the most consistent research, often early in their lives, and so are likely being denied a lifetime of better vision to suit their lifestyles. With the rapid growth of myopia worldwide this ineffective protocol will do nothing to lessen the long-term catastrophic forecast for the sight of future generations. Tom Griffiths writes persuasively about the myopia tsunami (https://www.opticianonline.net/opinion/viewpoint-one-million-conversations) already building every day. It is hard to over-state the fact that this once in a generation opportunity to fix a failing system risks being lost unless the regulator adopts a much bolder approach to illegal online supply.</p>	<p>illegal practice (to be considered as part of on-going approach to illegal practice), is limited to action based on sufficient evidence of risk of harm to the public to necessitate such action under the GOC’s overarching objective.</p> <p>The GOC encourages the sector to provide evidence of harm caused by illegal practice – conduct that amounts to a criminal offence under Part IV of the Act – as part of our call for evidence on the Opticians Act and consultation on associated GOC policies.</p>
<p>BCLM (can publish response)</p>	<p>Although the protocols are a slight improvement, for the GOC to fulfil its ‘protection of the public’ role it needs to make an effort to engage with ‘the public’. If they are unaware of the rules then they will have no idea about what is illegal practice. Therefore any GOC response is reactive, not proactive. Therefore illegal practice has to be part of a wider GOC communication strategy. If the GOC does not engage with the public, then how can it protect the public?</p>	<p>Thank you for your comments.</p> <p>As already mentioned, as part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users</p>

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		<p>are aware of the legislation that must be complied with.</p> <p>As also mentioned, the GOC cannot engage in public awareness campaigns that do not fall within our core regulatory function under the Act. The GOC is not aware of sufficient evidence of increased risk of harm from online purchases to necessitate such action under the GOC's overarching objective to protect the public.</p>
<p>ABDO (can publish response)</p>	<p>As stated above in answer to question four, the impact of updated protocol will be the lessened by the fact that it does not form part of a wider illegal practice strategy. Also, we disagree with the statement in the impact assessment that, "There are no plans for legislation to be changed." The Government has consulted on legislative changes relating to how healthcare regulators carry out their functions and we understand that the GOC will be carrying out a review of the Opticians Act. This creates an opportunity to consider whether there are changes to legislation that would enable the GOC to tackle illegal practice more effectively. We also question whether considering the level of media interest in the last 12 months is appropriate and suggest that a longer</p>	<p>Thank you for your comments.</p> <p>The GOC's remit regarding illegal practice relates only to conduct that amounts to a criminal offence under Part IV of the Act.</p> <p>As stated above, an extension of our remit through legislative reform will require a clear evidence base linking illegal online supply and risk of harm,</p>

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	<p>view is required. There have, in the past, been front page stories in the national press about loss of sight caused by wearing contact lenses without receiving appropriate aftercare advice. When considering risk in this area, it is important to consider the level of harm that might occur in the event of an adverse incident as well as the likelihood of such an adverse incident occurring.</p>	<p>or risk of potential harm, to the public. The GOC encourages the sector to provide evidence of harm caused by illegal online supply as part of our call for evidence and explain how the evidence base necessitates additional offences and enforcement powers in order for the GOC to protect the public.</p>
<p>AOP (can publish response)</p>	<p>The GOC's illegal practice strategy Illegal practice can lead to a range of risks of harm for patients, undermine professional regulation and lead to reputational damage for the optical professions. The GOC therefore has a vital role of public protection to minimise these risks by taking action when breaches of the Opticians Act could lead to harms. The AOP has engaged regularly with the GOC about its approach to tackling illegal practice and its protocol for prosecutions in recent years. Our public position statement on illegal practice and evidence to the GOC's illegal practice strategy review set out our longstanding concerns about the GOC's current approach and the changes we want to see, as well as the range of risks of harm that illegal and unsafe practice can lead to. The AOP conducted insight research alongside its campaign on buying contact lenses online in October 2021 that emphasises the urgency of tackling illegal practice. Of 1000 UK optometrists: • 62% said they'd seen evidence that more patients are buying contact lenses or spectacles</p>	<p>Thank you for your comments.</p> <p>The GOC's remit regarding illegal practice relates only to conduct that amounts to a criminal offence under Part IV of the Act.</p> <p>As stated above, an extension of our remit through legislative reform will require a clear evidence base linking illegal online supply and risk of harm, or risk of potential harm, to the public. The GOC encourages the sector to provide evidence of harm caused by illegal online supply as part of our call for evidence and explain how the</p>

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	<p>online since the pandemic. • Over half (55%) of AOP members report seeing evidence that the law is being broken by suppliers. General population research (2000 UK adults): • Just under half (45%) of contact lens wearers are unaware that some online suppliers of contact lenses do not comply with UK safety regulations, rising to 55% of women and 78% of over 55-year olds. • Over one in ten UK adults bought contact lenses during lockdown (13%) and after lockdown restrictions were eased (13%). • Two-thirds (67%) who purchased contact lenses online experienced an issue with these lenses. Nearly one in five (18%) had experienced eye irritation or a poor fitting with these lenses. Another 17% reported that the lenses they bought online had led to permanent eye damage and 15% said they had a painful eye condition that required urgent treatment. We support the GOC's intention set out in the consultation paper (para 1.5) to move from a reactive approach to tackling illegal practice to one that links more closely with its responsibility for public protection and enhancing public and sector awareness of its remit. We also agree that greater collaborative working is needed for this approach, with the optical sector, with registrants and with online platforms and enforcement bodies. However, as we have explained in our answers to question 2 and 4 the GOC also needs to do more to explain its remit, engage with the sector and raise awareness of risks of harm to fulfil its public protection objective. AOP Position statement: https://www.aop.org.uk/our-voice/policy/position-statements/2016/01/28/illegal-practice AOP response to previous GOC survey: https://www.aop.org.uk/our-voice/policy/consultations/2021/06/17/response-to-a-goc-stakeholder-survey-on-illegal-practice Legislative reform to meet future risks to public protection We believe the GOC needs an improved set of tools and remit</p>	<p>evidence base necessitates additional offences and enforcement powers in order for the GOC to protect the public.</p>

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Individual/org	Comment	GOC response
	<p>to tackle illegal and unsafe optical. In our response to the Government commissioned KPMG survey on healthcare regulation in September 2021 we explained that the GOC should be supported in taking agile action against illegal practice to meet its responsibility for public protection. This should include an evolved regulatory remit from Government to allow the GOC to meet the increasing challenges of healthcare in the forum of products and services being marketed online, facilitated by improvements in technology and artificial intelligence The two main future risk areas of harm to patients and the public will be:</p> <ul style="list-style-type: none"> • The growing online sales of optical products. • The emergence of unregulated online refraction and optical services. <p>It is therefore vital that the GOC’s rules set out in legislation allow it to tackle these threats to public protection. The current Government plans to reform healthcare regulation and its engagement with individual regulators about their underlying rules provides a useful opportunity to achieve this. This should also be used as an opportunity to clarify areas of the Opticians Act, such relating to contact lens substitution, which are differentially interpreted to ensure that they protect the public. Our view, set out in our position statement, is that substitution must involve input from a registrant and be in the clinical interests of the patient. We will further set out our views about this in the upcoming GOC consultation that will inform its engagement with the Department for Health and Social and Care about its rules and underlying legislation.</p> <p>AOP response to KPMG survey: https://www.aop.org.uk/our-voice/policy/consultations/2021/09/24/response-to-the-review-of-professional-regulators-stakeholder-survey AOP CL substitution position</p>	

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Individual/org	Comment	GOC response
	statement: https://www.aop.org.uk/our-voice/policy/position-statements/2018/11/16/contact-lens-substitution	
FODO (can publish response)	Without the context of a wider strategy, the protocol, although informative to the sector, will also send a clear signal to committed law evaders that there is, in reality, very little likelihood of the GOC taking a prosecution against them. The accompanying impact assessment seems to be an internally focused GOC management tool and makes no assessment of the protocol’s anticipated benefit for legal operators or impact on reducing illegal practice.	<p>Thank you for your comment. As mentioned above, we recognise that the protocol is not, of itself, a strategy and we have developed objectives to form the basis of our approach to illegal practice which flow from the Professional Standards Authority (PSA) standard 12, against which our approach to illegal practice is measured.</p> <p>As part of our ongoing approach to illegal practice, we are working with online platforms to raise awareness of our legislation and include relevant sections of the Act on sales information pages so that users are aware of the legislation that must be complied with.</p>