

Consultation response

Home Office, Mandatory reporting of child sexual abuse: call for evidence

August 2023

About the General Optical Council

The GOC is the regulator for the optical professions in the UK. We currently register around 33,000 optometrists, dispensing opticians, student optometrists and dispensing opticians, and optical businesses.

We have four core functions:

- Setting standards for the performance and conduct of our registrants.
- Approving qualifications leading to registration.
- Maintaining a register of individuals who are fit to practise or train as optometrists or dispensing opticians, and bodies corporate who are fit to carry on a business as optometrists or dispensing opticians.
- Investigating and acting where registrants' fitness to practise, or train, or ability to carry on a business may be impaired.

General comments

We welcome the opportunity to comment on the Home Office's call for evidence on the mandatory reporting of child sexual abuse. This follows the Independent Inquiry into Child Sexual Abuse which documented unacceptable cases of organisations and institutions failing to protect those in their care from child sexual abuse. Recommendation 13: Mandatory reporting recommended that the UK government and Welsh Government introduce legislation which places certain individuals – 'mandated reporters' – under a statutory duty to report child sexual abuse where they: receive a disclosure of child sexual abuse from a child or perpetrator; or witness a child being sexually abused; or observe recognised indicators of child sexual abuse.

Our registrants would qualify as 'mandated reporters' under the proposals. They routinely deliver eye care to children in a variety of settings and may encounter situations falling within the scope of the proposed statutory duty. While the scope of practice of optometrists and dispensing opticians means that it is less likely that they will encounter child sexual abuse than some other healthcare professionals, patients may still confide in them.

While outside the scope of this call for evidence, we recognise that registrants can be perpetrators of sexual offences involving children.

The call for evidence notes that some sectors have existing duties and requirements which a mandatory reporting duty will interact with, and that government is keen to understand how that interplay might work in practice. Therefore, before addressing the specific consultation questions, we hope it will be helpful to explain in some detail how the GOC's existing regulatory approach provides protection in relation to reporting child sexual abuse.

We note the geographical scope of proposal is England. The GOC is a UK regulator operating in a devolved context. Where there are differences in approach across nations that are not justified in policy terms, this can cause confusion for patients and registrants, and create challenges for regulators and other agencies to implement. Therefore, we encourage governments to pursue a consistent approach on this issue across all nations.

The GOC's existing regulatory approach

Education and training

As part of our Education Strategic Review, we updated our [education and training requirements for GOC-approved qualifications](#). These requirements specify outcomes describing the expected knowledge, skills and behaviours a dispensing optician or optometrist must have at the point they qualify and enter the register with the GOC.

Several outcomes are relevant to this call for evidence. For example, the outcomes relating to ethics and standards, include that the individual "understands and implements relevant safeguarding procedures, local and national guidance in relation to children, persons with disabilities, and other vulnerable people". As part of gaining GOC approval, qualifications must provide experience of working with patients (such as patients with disabilities, children, their carers, etc) and this experience must increase in volume and complexity as a student progresses through a programme.

The outcomes are closely mapped to the GOC's Standards of Practice for Optometrists and Dispensing Opticians (see below), which students will be expected to meet once they join the register. Similarly, our [requirements for continuing professional development](#) are linked to the standards of practice. Our approach to CPD requires registrants to achieve a minimum number of points over a three-year cycle covering four domains. The professionalism domain references safeguarding, and our registrant records indicate that child safeguarding CPD events were attended nearly 2200 times between January 2022 and January 2023.

Standards of practice

The GOC has a statutory responsibility to set standards of practice for all categories of registrant and may produce supplementary material where we consider that registrants need additional support. Standard 11 of our [standards of practice for optometrists and dispensing opticians](#) – Protect and safeguard patients, colleagues and others from harm – is most relevant to this call for evidence. This requires registrants to protect and safeguard children from abuse, including by being alert to signs of abuse and reporting concerns to an appropriate person or organisation. We have produced [supplementary guidance on speaking up](#) when patient or public safety may be at risk.

Standard 14 relating to maintaining confidentiality and respecting patients' privacy is also relevant. Our [supplementary guidance](#) on this standard considers the professional requirement to maintain confidentiality alongside the need to ensure protection of patients and the public. It guides registrants on situations involving serious harm to individuals or the wider public and where they need to make the decision as to whether there is a public interest in disclosing information that outweighs the duty of confidentiality. Evidence of suspected abuse is given as an example of where this decision may arise.

We are unusual among healthcare regulators in having student registrants. Our [standards for optical students](#) largely mirror those for fully qualified optometrists and dispensing opticians on these matters (see Standard 10).

The call for evidence seeks views on whether the reporting duty should apply at organisational as well as individual level. About half of optical businesses carrying out restricted activities under the Opticians Act, such as the sight test, are registered with the GOC. Whether or not businesses must or may register with us depends on a complex set of factors. Our position is that all businesses carrying out restricted activities should be required to register with us, and we hope that planned legislative reforms¹ will deliver on this objective. Government has yet to confirm when GOC's legislation will be changed.

Standard 1 of the GOC's [standards for optical businesses](#) – Patients can expect to be safe in your care – is relevant to this call for evidence. It requires businesses to understand their legal and professional responsibilities to safeguard patients from abuse and ensures that it and its staff are prepared and supported to do so; has processes for staff to report safeguarding concerns and encourages them to do so; promptly addresses concerns; and escalates and reports concerns, including to the appropriate authorities and encourages others to do the same.

¹ See [here](#) for further detail on the DHSC reforms.

The GOC is currently reviewing its standards of practice for optometrists and dispensing opticians and optical students, and we will consult on draft revised standards in early 2024. We are likely to revise our standards for optical businesses once this work is complete. Whenever reviewing our standards, we take full account of the outcomes of independent healthcare inquiries to ensure lessons are learned. We will consider the report of the Independent Inquiry into Child Sexual Abuse and this call for evidence in our review.

Registration

Since Government is considering making failure to report a criminal offence it is relevant to set out how the GOC deals with criminal convictions.

The [GOC Registration Rules 2005](#) require registrants to make declarations regarding disciplinary or criminal investigations or outcomes. We may also be notified of criminal investigations or outcomes by the relevant authorities. Registrants should also self-report if currently subject to an investigation by the police for an offence which may lead to a conviction or caution.

Criminal offence declarations are dealt with on a case-by-case basis in line with our [Protocol on the Handling of Criminal Convictions Disclosed by Registrants](#). All disclosures of criminal convictions will be referred to the Registrar for consideration. The main issue for the Registrar when considering an application will be whether, despite a conviction, the applicant is suitable for registration. This will depend several factors: the nature and seriousness of the offence; the extent and nature of any risk to patients or the public entailed in the offending behaviour; the time frame of offending; relevance of the offence to professional standards and conduct; the applicant's character and conduct since the offence; and the impact of such an offence being committed by a registrant upon public confidence in the professions.

Fitness to practise

One of our core functions is to investigate and act when registrants' fitness to practise, train or carry on business is impaired. Therefore, if we receive information which could potentially call into question a registrant's fitness, we may need to investigate. Anyone can raise a concern with us if they think a GOC registrant is not fit to practise (or train or run a GOC-registered business). We receive concerns from members of the public, patients, carers, employers, the police and other GOC registrants.

There are different types of sanctions we can impose if our Fitness to Practise Committee decide that an individual's fitness to practise is impaired. These include a financial penalty order, conditional registration, suspension and erasure from the register. If the Hearings Panel decide that the individual's fitness to practise is not impaired, they may issue a warning about their future conduct or performance.

We can confirm that in recent years we have not received any complaints that a registrant has failed to report a concern to the appropriate authorities.

Answers to specific questions

We answer only those questions where we can provide a regulatory perspective.

Section 1: Who the duty should apply to

Q5. Is the range of ‘mandated reporters’ set out by the recommendation (people working in regulated activity with children under the Safeguarding and Vulnerable Groups Act 2006, people in positions of trust as defined by the Sexual Offences Act 2003 and police officers):

- *Appropriate*
- *Too narrow*
- *Too broad*
- *Don’t know*

Appropriate.

Optometrists and dispensing opticians fall within scope of Schedule 4 of the Safeguarding and Vulnerable Groups Act 2006 since they conduct a regulated activity that involves “health care provided by, or under the direction or supervision of, a health care professional”.

Q6: At what level should mandatory reporting apply?

- *Only at an individual level*
- *Only at an organisational level (bodies, institutions or groups)*
- *Both individual and organisational level*
- *General duty on adult population*
- *Don’t know*

Both individual and organisational level.

Q7: [If respondent selected ‘Only at an organisational level (bodies, institutions or groups)’ or ‘Both individual and organisational level’ in response to the above question] Which organisations or groups should it apply to?

In the context of optical services, we consider mandatory reporting should apply to both our individual and business registrants, mirroring the approach in the GOC’s standards of practice.

Ensuring that responsibility sits at both individual and organisational level is mutually reinforcing. Every healthcare professional has a responsibility to ensure the care and safety of their patients and the public and to uphold professional standards. They are professionally accountable and personally responsible for their practice and for what they do or do not do, no matter what direction or guidance they are given by an employer or colleague. This means they must always be able to justify their decisions and actions.

Equally, there is a need to promote effective leadership and culture in the context where business-level systems impact on patient safety. The call for evidence recognises that child sexual abuse is a sensitive, complex and specialised area, which is difficult for individual practitioners to deal with. Employers have an important responsibility to support registrants and may be the most appropriate channel to raise concerns to the appropriate authorities.

Placing responsibility on both individual and employer raises implementation issues that will need to be worked through. This includes any hierarchy between the two groups in terms of where any primary responsibility for reporting would lie, resolving issues where there are conflicting accounts between the two groups, and managing risks around duplicate referrals.

Further consideration should be given to optical students who are one category of GOC registrant. Students spend supervised time in practice as part of their training, and so may encounter child sexual abuse, although clearly will have less experience and confidence in dealing with these situations than fully qualified registrants will. Our standards for optical students place similar expectations as for fully qualified professionals on safeguarding matters, but students are more likely to report concerns via tutors, supervisors and employers.

Q8: If there was a mandatory reporting duty at an organisational level, should those impacted be required to report on their activity annually?

- Yes
- No
- *Don't know*

No.

Most optical businesses are small, so they are unlikely to encounter child sexual abuse and an annual reporting requirement would be disproportionate. From the point of view of authorities responsible for policing the duty, effort chasing up likely nil returns from a very large number of organisations would be better used pursuing evidence of harm where it is reported.

Should government wish to consider this further, an alternative is to require only organisations above a size threshold to report on their activity annually. The size thresholds for gender pay gap reporting could offer a useful model.

Section 2: Scope of the duty

Q10: Should a mandatory duty to report go beyond the scope recommended by the Inquiry and cover other/all types of abuse and neglect?

- Yes
- No
- Don't know

No.

Healthcare professionals may encounter various types of abuse involving different groups of vulnerable persons. It is possible that mandatory reporting duties should be extended, but a general duty to report could potentially have a very wide scope and it is unclear how this would be policed and resourced. A blanket reporting duty risks unintended consequences, and any extension of reporting duties should be justified on its merits and based on evidence.

Q13: At what level of knowledge should a mandatory reporting duty apply?

- *Restricted to known incidents of abuse*
- *Both known and suspected incidents of abuse (based on recognised indicators of abuse)*

Both known and suspected incidents of abuse (based on recognised indicators of abuse).

Ultimately, this approach would offer the strongest protection to children. The Inquiry acknowledged that identifying indicators of abuse is more complicated than witnessing or receiving a disclosure of child sexual abuse. Therefore, professionals will need confidence that there will be no reprisals where referrals that turn out to be false are made in good faith. Further, there should be significant effort in educating professionals about recognised indicators of abuse and reporting considerations and processes.

The GOC's arrangements relating to continuing professional development (see the general comments section) may provide an opportunity to support registrants to exercise their responsibilities, and we would welcome further discussion with the relevant agencies at the appropriate time.

Section 3: Sanctions for failure to report

Q17. What is your view on the Inquiry's proposal that a breach of the mandatory reporting duty should constitute a criminal offence?

- *Strongly agree*
- *Agree*
- *Neither agree nor disagree*
- *Disagree*
- *Strongly disagree*
- *Don't know*

Agree.

We have answered 'agree' since there may be instances where healthcare professionals and/or organisations deliberately fail to report clear cases of child sexual abuse and a criminal prosecution is the proportionate response.

However, a criminal prosecution is unlikely to be proportionate in most cases where the reporting duty is breached. It will be important to mitigate risks of creating a climate of fear that could be counterproductive in terms of instilling a strong safeguarding culture. Equally, there are risks to vulnerable children from professionals and organisations over-reporting concerns to agencies due to fear of prosecution. If a criminal offence is created, government should focus on how to mitigate risks of unintended consequences. For example, the offence should not be on a strict liability basis. Clear guidance from the Crown Prosecution Service on its approach to the offence would also be helpful.

Failure to report concerns of child sexual abuse may constitute a breach of the GOC's standards of practice. If an allegation of failure to report is made, all relevant circumstances will be considered, including the registrant's experience and what could reasonably have been expected. Relying on healthcare regulators would provide scope for proportionality to be exercised regarding the decision to investigate and sanction, using their expertise to ensure public protection in the unique context of provision in their sectors.

Given the characteristics of optical services, including that instances of registrants witnessing or receiving a disclosure of child sexual abuse will be very rare, we anticipate that most instances of non-reporting could be dealt with adequately by regulators via enforcement of their standards of practice.

Q18: Do you believe that any other types of sanction should apply to breaches of the mandatory reporting duty (for example professional disqualification for individuals, or regulatory action in respect of organisations)?

- *Yes*
- *No*

- *Don't know*

Yes.

The GOC may already investigate and sanction registrants where they fail to meet statutory requirements. As described above, our existing standards require registrants to protect and safeguard children from abuse, including by being alert to signs of abuse and reporting concerns.

Our standards apply to optometrists and dispensing opticians, optical students, and optical businesses. We may investigate registrants who breach our standards, and a wide range of sanctions is available. Planned DHSC legislative reforms will introduce greater consistency across healthcare regulators on their approach to fitness to practise and on sanctions.

As noted in response to the question 17, relying on healthcare regulators would provide scope for proportionality to be exercised regarding the decision to investigate and sanction, using their expertise to ensure public protection in the unique context of provision in their sectors. It would not be proportionate to take professionals through fitness to practise proceedings in all cases where there was a failure to report, but there would remain circumstances where a registrant's decision is called into question, and then proceedings and possible sanction would be required.

The GOC's available sanctions are a warning, financial penalty, conditional registration, suspension and erasure from the register. These sanctions, including the prospect of losing one's livelihood should already create strong incentives for our registrants to be alert to and report child sexual abuse. There should be no intention for Government or legislation to set expectations for regulators on what sanctions might be appropriate, or to require changes to the existing scope or process of their fitness to practise proceedings.

Section 4: How to ensure successful implementation

Q22: Can you foresee any overlap or tension with your or others' existing duties or professional requirements which may be introduced by a mandatory reporting duty?

- *Yes*
- *No*
- *Don't know*

Yes.

We welcome recognition in the call for evidence that some sectors have existing duties and requirements which a mandatory reporting duty will

interact with, and that government is keen to understand how that interplay might work in practice. In the general comments section, we have set out in some detail how the GOC's existing regulatory approach provides protection in relation to reporting child sexual abuse.

While there would be significant overlaps between a mandatory reporting duty and our regulatory arrangements, we are confident these can be successfully managed. In addition, the GOC has strong relationships and data sharing agreements with a range of agencies, which we would look to extend to support effective implementation of the duty, as appropriate.

Q23: Do you believe the introduction of a mandatory reporting duty raises any equalities considerations? For example, positive or negative impacts on groups with protected characteristics.

- Yes
- No
- Don't know

Yes.

The GOC publishes an annual monitoring report on equality, diversity and inclusion (EDI), which includes aggregated data on protected characteristics. Of note, our [2022 EDI report](#) shows that 63% of all registrants were female. 48% of all registrants were from a black, Asian or minority ethnic background, while 40% of all registrants were in the Asian / Asian British category.²

While the GOC's [public perceptions survey](#) provides data on the protected characteristics of service users, only adults may respond to the survey.

Q24. What, if any, kind of protections do you think would need to be in place to ensure individuals making reports in good faith do not suffer personal detriment as a result?

Healthcare professionals making reports in good faith should be confident that they will not suffer personal detriment from anyone, including their regulator. Implementation of the duty should build on established existing good practice in healthcare regulation around speaking up and protected disclosures. Complying with the legal duty to report a criminal offence would not breach data protection rules or other confidentiality requirements.

Section 74(7) of the Serious Crimes Act 2015 states that disclosure made in a Female Genital Mutilation notification does not breach any obligation of confidence owed by the person making the disclosure, or any other restriction

² Figures for ethnicity are after prefer not to say responses are excluded from the calculations.

on the disclosure of information. This provision interacts successfully with our standards of practice, and we would support a similar approach on child sexual abuse being set out in statute.

The call for evidence contemplates ‘a removal of liability for civil proceedings or breaches of professional conduct’ in these circumstances. We would like further detail before commenting but our initial view is that existing regulatory mechanisms should mean that new statutory protections are unnecessary.

Q26: Where should reports be made to?

- Local Authority
- Police
- elsewhere (please specify)

We agree with the Inquiry that reports should be made to local authority children’s social care or the police, to allow mandated reporters to direct their report to the most suitable agency depending on the circumstances.

Since reports could be made to multiple agencies, it will be important for data to be centrally collated and publicly reported to identify themes and for agencies to collaborate in using the data to improve practice. Collating the data centrally may identify differences in reporting levels between sectors where targeted effort may be needed to improve practice.

Q27: The Inquiry recommended that “reports from suspicions or knowledge of abuse should be made as soon as practicable”. Should timescales from the point of suspicion/knowledge be defined more specifically?

- Yes
- No
- Maybe
- Don’t know

No.

Like other healthcare regulators, and in line with longstanding government better regulation policies, the GOC operates an outcomes focused approach to regulation. The phrase ‘as soon as practicable’ clearly conveys the need for urgency of reporting but each instance will be facts specific. An outcomes focused approach creates scope for registrants to exercise their professional judgement in each case. Equally, this approach allows regulatory bodies to investigate potential breaches of their standards of practice on this basis.

Q28: Would your organisation need to make any changes in order to ensure the successful implementation of a mandatory reporting duty?

- *Yes*
- *No*
- *Don't know*

Don't know.

This will depend on the precise wording of the duty and associated processes. The GOC's existing standards of practice already create mandatory reporting obligations on registrants and a separate statutory duty could reinforce this. Nevertheless, we will consider this further as part of our current review of our standards of practice for dispensing opticians and optometrists and students.

Successful implementation will depend as much on the supporting guidance and reporting structures as the creation of a new statutory duty. Professional bodies have an important role alongside regulators to support their members in complying with new duties and GOC will work collaboratively to raise awareness and support effective implementation of any new requirements.