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Fitness to practise amongst UK optometrists

Penny J D'Ath[1] BSc MCOptom PhD, David F Edgar[1] BSc FCOptom, Christine S Rajah[2] MBBS DRCOG DFFP AFOM MIOSH, Trevor J Warburton[3] BSc FCOptom, Karen N Sparrow[4] BSc(Hons) MCOptom FAAO FEAOO and Clare M Wilson[5] PhD FRCOphth

[1]Division of Optometry and Visual Science, School of Health Sciences, City University London
[2]Student Health Service, City University London
[3]Association of Optometrists' Legal Department, London
[4]Association of Optometrists, London
[5]Department of Visual Neuroscience, UCL Institute of Ophthalmology, London

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1 CET point for UK optometrists

Background

There are currently over 13000 registered optometrists in the UK (General Optical Council 2014a). All UK optometrists are required to register with the General Optical Council (GOC) in order to practise. The College of Optometrists is the professional body for the profession. In fulfillment of its aims, the College issues useful clinical guidance which takes a variety of forms, including the *Guidance for Professional Practice* (The College of Optometrists 2014a) (which replaces the *Code of Ethics and Guidance for Professional Conduct*) and the *Clinical Management Guidelines*, which currently provide diagnosis and management guidelines for 56 ocular conditions (The College of Optometrists 2014b). The GOC is the regulatory body for the profession and provides a safety net for the general public should any concerns arise. The GOC has four main functions: (1) setting standards within the industry; (2) approving the route to registration; (3) maintaining registers; and (4) investigating complaints regarding a registrant's fitness to practise (FTP) (General Optical Council 2014b). Optometrists are required to be registered with the GOC from the moment they enrol on an optometry degree programme and they can take up full registration on successful completion of the College of Optometrists' Scheme for Registration. In 2012–2013, the GOC had 26616 registrants, comprising optometrists, dispensing opticians, student optometrists, student dispensing opticians and optical businesses (General Optical Council 2014a). All optometrists are required to hold indemnity insurance against litigation, with the majority (almost 80%) choosing to insure through the Association of Optometrists (Association of Optometrists personal communication). In addition, the majority of optometrists are also on a performers' list, and so are also subject to the performers' list regulations.

Complaints against optometric practitioners can come from a variety of sources, including patients, the Optical Consumer Complaints Service (now delivered by Nockolds), the National Health Service (NHS), the Advertising Standards Authority, primary care organisations, employers, the police and professional or educational bodies (General Optical Council 2014a). Not all of these complaints will go to the GOC and, of those that do, not all of these will go through to the GOC FTP process.

FTP models are used throughout healthcare, with the General Medical Council (GMC) being responsible for doctors (General Medical Council 2014), the Nursing & Midwifery Council for nurses and midwives (Nursing & Midwifery Council 2014) and the Health & Care Professions Council who oversee a number of professions, including dieticians, hearing-aid dispensers, occupational therapists, orthoptists and speech and language therapists (Health & Care Professions Council 2014). The GOC is responsible for FTP for optometrists, dispensing opticians and student optometrists/dispensing opticians. This article will focus on complaints to the GOC.

Complaints under the system prior to April 2014

Prior to the changes to the FTP rules which took effect on 1 April 2014, all complaints were previously investigated by the Investigation Committee (IC) (Figure 1) (Association of Optometrists 2014a). This Committee was made up of nine members: three optometrists, two dispensing opticians, three lay persons and one doctor. When a complaint was made against a registrant or a registrant made a declaration (such as declaring an illness or a conviction), then a minimum of five members of the IC (which included one optometrist, one dispensing optician and one lay person) would make a decision with regard to the complaint (General Optical Council 2005). The IC reviewed all complaints with the following consideration: 'The main objective of the Council in exercising such of the Council's functions as affect the health and safety of members of the public is to protect, promote and maintain their health and safety' (General Optical Council 2011).

Date of acceptance: 12 December 2014. Address for correspondence: Dr Penny J D'Ath, Division of Optometry and Visual Science, School of Health Sciences, City University London. penny.d'ath@gmail.com

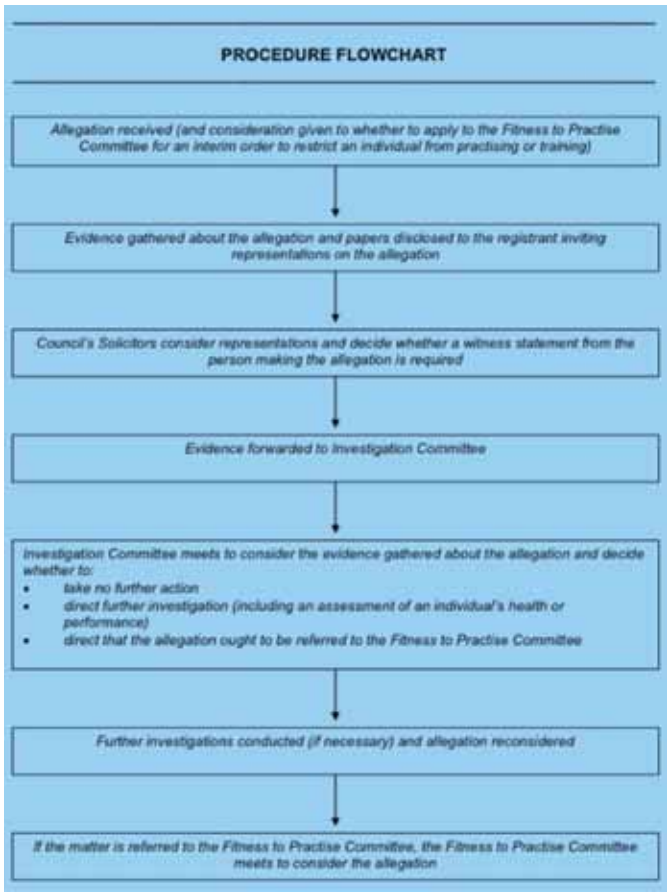


Figure 1. The investigation process under the system prior to April 2014. (Reproduced from Association of Optometrists 2014a, with permission.)

The IC could decide whether FTP was compromised because of: poor professional performance, health issues, inappropriate behaviour, being under the influence of alcohol or drugs at work, dishonesty, including fraud, criminal convictions or cautions or a finding by another regulatory body (General Optical Council 2014a). The IC then had four options available: (1) refer the case to the FTP Committee; (2) issue a warning; (3) invite the registrant to undergo a voluntary performance review; or (4) take no further action. If the case was escalated upwards to the FTP Committee, the IC had the additional responsibility of deciding whether an interim order should be considered while the case was investigated. An interim order was imposed by the FTP Committee when it was considered that there was a risk to the public for a practitioner to carry on practising while waiting for his or her case to be heard, and could take the form of immediate suspension or conditional registration, but it could not exceed 18 months and must have regular reviews (General Optical Council 2011).

Complaints under the new system introduced in April 2014

Following three consultations, the FTP rules were changed on 1 April 2014 in an effort to speed up the process and make it more efficient (General Optical Council 2014c) (Figure 2). The main changes under the new system saw the introduction of 15 case examiners (10 GOC registrants and five lay persons) (General Optical Council 2014d). Under the previous system, a case could take over a year for an outcome to be determined, so it is anticipated that the introduction of case examiners will reduce the length of the

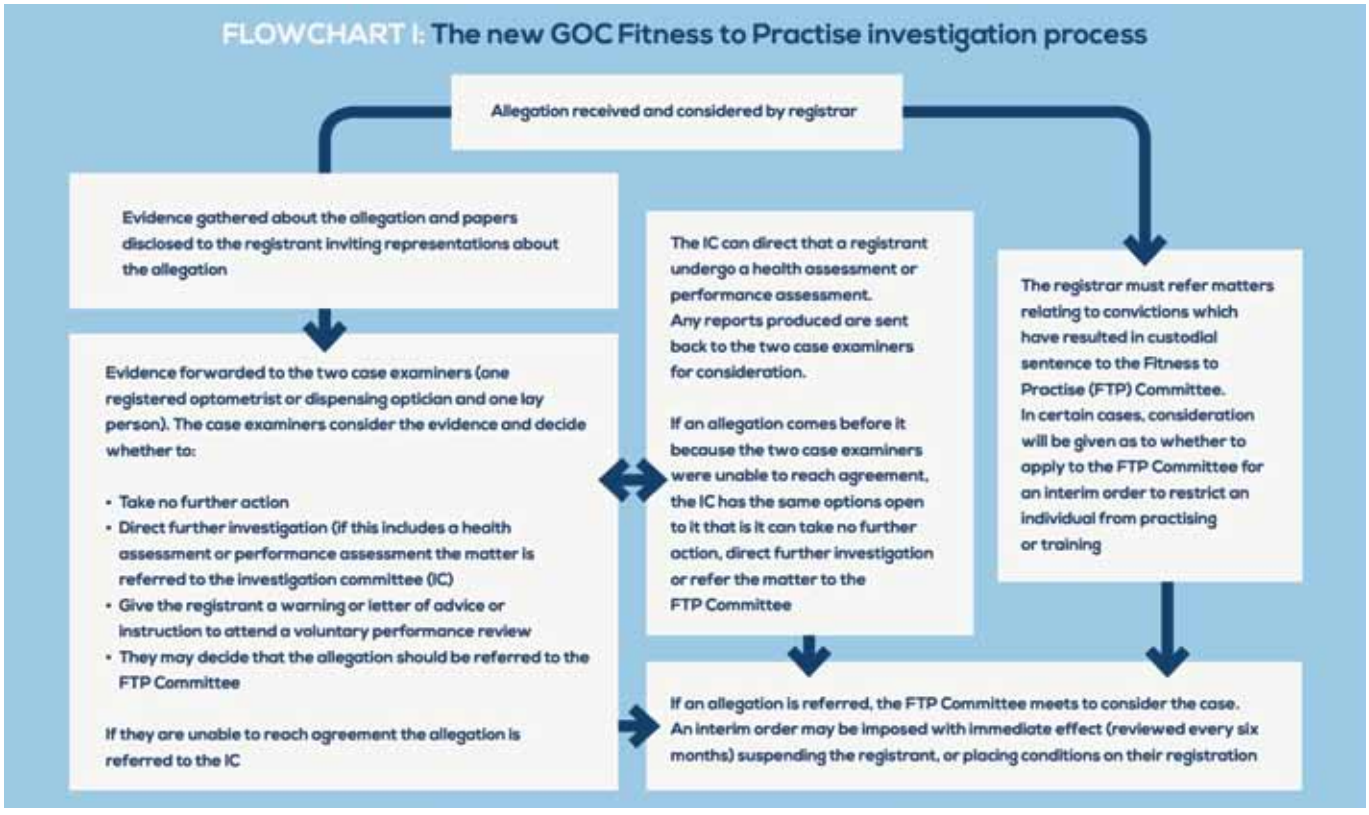


Figure 2. The investigation process under the new system introduced in April 2014. (Reproduced from Association of Optometrists 2014b, with permission.)

complaints process by 3–4 months. Whereas, prior to these changes, each complaint was dealt with by the IC, which required a minimum of five people for each complaint, the new system requires a pair of case examiners (one GOC registrant and one lay person) to review each case. The case examiners may decide whether to refer the case to a FTP hearing, to issue a warning or for no further action to be taken. Case examiners may refer to IC for a variety of reasons, but they must send a case to IC if they are unable to reach a consensus. In addition to these changes, the registrar may now also refer cases concerning serious criminal convictions directly to an FTP hearing as well as referring other cases directly to an interim-order hearing.

Fitness to practise hearings

Although funded by the GOC, the FTP Committee is independent of it. The GOC is responsible for presenting its case to the FTP panel, which consists of 13 optometrists, seven dispensing opticians and 13 lay persons (General Optical Council 2014e). The management and decision-making process of the FTP Committee were not altered in April 2014. In cases of litigation, optometrists are sued through the civil courts, which apply an 'on the balance of probabilities' standard of proof when deciding outcomes. In other words, was it 'more likely than not to have happened'? The standard of proof applied in the criminal courts is guilt 'beyond reasonable doubt' or 'sure', as it is now more commonly known. In FTP hearings, it is the civil court standards of proof that apply, and decisions regarding registrants are made 'on the balance of probabilities' (General Optical Council 2014f).

Having heard all the evidence, the FTP Committee has four options available:

1. Is the case proven?
2. If it is proven, then does the case amount to misconduct or deficient professional performance?
3. In cases where the health of a registrant is affected, are there physical or mental health issues which may impact upon a registrant's ability to practise?
3. Do these findings amount to an FTP impairment and, if they do, then what sanctions are appropriate (Figure 3) (General Optical Council 2014d, e)?

The FTP will take into consideration any mitigating circumstances and signs of remorse (General Optical Council 2014f).

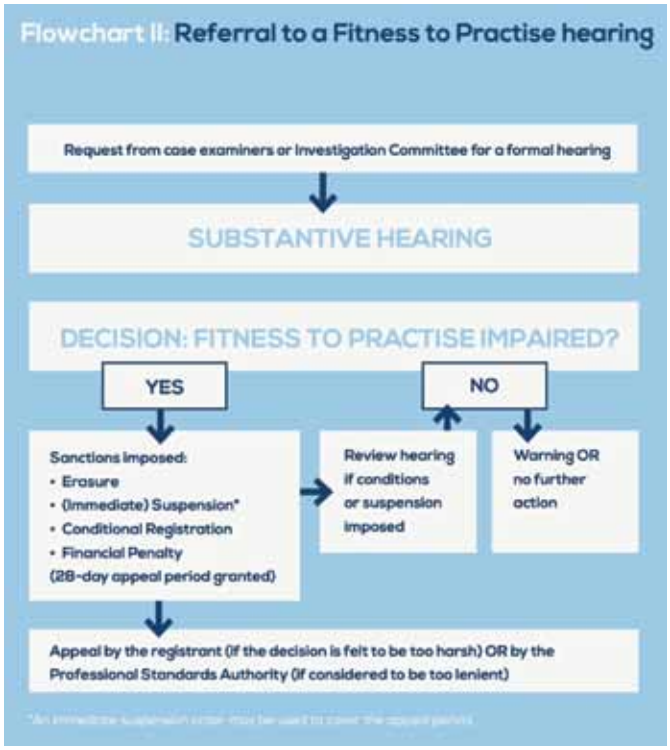
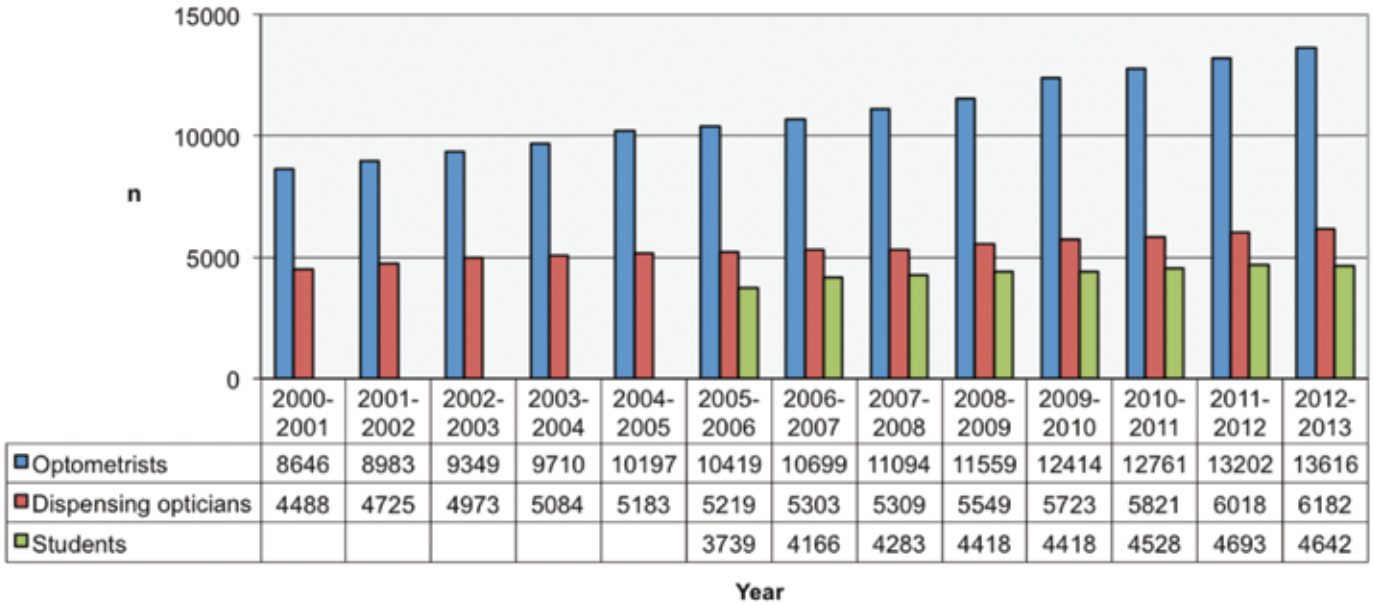


Figure 3. The investigation process. (Reproduced from Association of Optometrists 2014b, with permission.)



	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
Optometrists	8646	8983	9349	9710	10197	10419	10699	11094	11559	12414	12761	13202	13616
Dispensing opticians	4488	4725	4973	5084	5183	5219	5303	5309	5549	5723	5821	6018	6182
Students						3739	4166	4283	4418	4418	4528	4693	4642

Figure 4. Number of registrants per year based on data from GOC reports. (Reproduced from Association of Optometrists 2014a, with permission.)

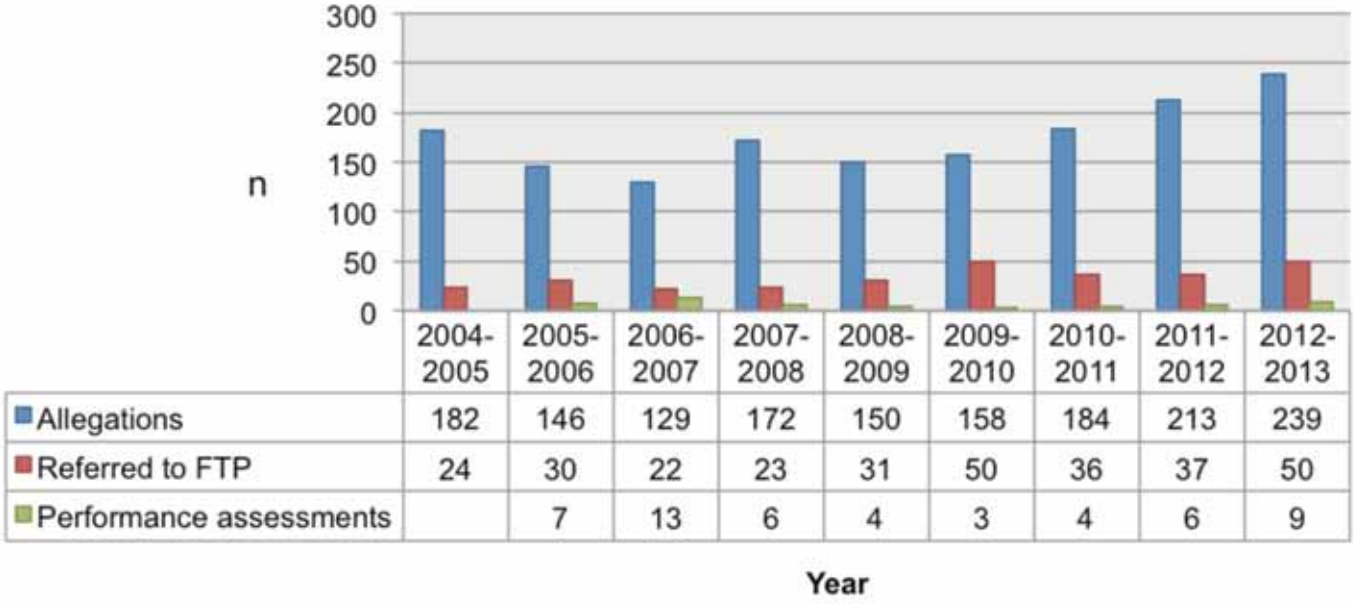


Figure 5. Number of allegations per year based on General Optical Council reports. FTP, fitness to practise. (Reproduced from General Optical Council 2014a.)

This study examined the online annual reports available on the GOC website that were heard under the system prior to April 2014 (General Optical Council 2014a). Ethical approval was not obtained, as all of these cases are readily accessible on the GOC website. Annual reports rather than FTP reports were examined, as FTP reports only became available in 2009–2010, so it was felt to be more appropriate to use figures which came from the same source.

Results

The annual reports from the GOC reveal that the number of optometrist and dispensing optician registrants has increased year on year (Figure 4). The annual reports for 2008–2009 and 2009–2010 show that the number of student registrants remained constant for these 2 years, whilst the annual report for 2012–2013 indicates a slight fall in student numbers compared with the previous year.

Table 1. Number of allegations per year by registrant

	Optometrist	Dispensing optician	Student (student optometrist/ student dispensing optician)
2012–2013 Number of registrants Number of complaints (%)	 13 616 160 (1.18%)	 6182 28 (0.45%)	 4642 18 (0.39%)
2011–2012 Number of registrants Number of complaints (%)	 13 202 138 (1.04%)	 6018 32 (0.53%)	 4693 22 (0.47%)
2010–2011 Number of registrants Number of complaints (%)	 12 761 125 (0.98%)	 5821 28 (0.48%)	 4528 16 (0.35%)
2009–2010 Number of registrants Number of complaints (%)	 12 414 108 (0.87%)	 5723 29 (0.51%)	 4418 44 (1.00%)
2008–2009 Number of registrants Number of complaints (%)	 11 559 135 (1.17%)	 5549 32 (0.58%)	 4418 22 (0.50%)
2007–2008 Number of registrants Number of complaints (%)	 11 094 123 (1.11%)	 5309 26 (0.49%)	 4283 8 (0.19%)
2006–2007 Number of registrants Number of complaints (%)	 10 699 138 (1.29%)	 5303 21 (0.40%)	 4166 4 (0.10%)

Reproduced from General Optical Council (2014a).

The annual reports also show that the number of allegations made to the GOC has increased steadily since 2008–2009, with over 200 complaints in 2011–2012 and 2012–2013 (Figure 5). Figure 5 also shows the number of practitioners who were referred for a performance assessment, which involves the GOC sending two assessors to observe the practitioner examining patients and report on the performance of the practitioner involved. The assessors are asked to report on aspects specific to the case but they generally report on other aspects of performance that they observe.

The increase in the numbers of allegations against optometrists from 2008–2009 does not take into account the steady increase in numbers of optometrists over this period. To reflect this, Table 1 shows the number of allegations made to the GOC regarding optometrists, dispensing opticians and students. These numbers have been expressed as percentages (shown in brackets) of the total number of practitioners on the GOC register for each year. This percentage assumes that each allegation related to a different practitioner. The year 2006–2007 had the highest percentage of complaints against

Table 2. How to avoid complaints

How to avoid complaints if you are an optometrist	How to avoid complaints if you are a student optometrist
• Do follow the College of Optometrists' guidelines (The College of Optometrists 2014a) • Do follow The College of Optometrists and The Royal College of Ophthalmologists joint guidelines (2011) • Do follow the College of Optometrists' *Clinical Management Guidelines*, which currently provide diagnosis and management guidelines for 56 ocular conditions (The College of Optometrists 2014b) • Do keep good records • Do record more than 'NAD' in ophthalmoscopy • Do compare current findings with previous findings – C/D ratio, intraocular pressure and any visual fields and images • Don't send urgent referrals via the general practitioner • Do check that urgent fax referrals have been received (phone to check) • Don't criticise other practitioners – act as you would like them to act about you • Do be sure you are aware of and follow the legislation governing sight tests • Do always give patients their prescription or statement after a sight test • Do give the patient the reason for any referral (legislation requires it) • Do follow-up repeat procedures to ensure they happen and you know the result or refer the patient in writing to someone else in the practice • Do be aware of local referral pathways, especially the urgent ones such as for wet age-related macular degeneration • Do tell patients what you find – not doing so is a common cause of complaint • Do consider refunds at an early stage, regardless of fault – it can save a lot of grief • Do be aware of permissible General Ophthalmic Services sight test intervals and voucher supply intervals	• Do follow the College of Optometrists' guidelines (The College of Optometrists 2014a) • Do join the Association of Optometrists (AOP) and College of Optometrists (engage with your peers – as a student you are automatically a member of both organisations) • Do attend lectures • Do learn to listen and take good, legible and comprehensive lecture notes • Do have the courage to ask questions and, if appropriate, challenge views of colleagues • Do learn quickly the purpose of the different optical bodies, eg General Optical Council (GOC), AOP and College of Optometrists • Be honest • Comply with the GOC's *Code of Conduct* (General Optical Council 2014g). In particular, act responsibly and remember that your actions – if serious – could impact upon your ability to practise your chosen career • Be aware that if you are involved in an incident which involves you accepting a police caution, this must be declared to the GOC • Be aware that police cautions and convictions are never 'spent' for the purposes of declaring the matter to the GOC • Do not delay in contacting the AOP Legal and Regulatory Department for confidential advice • Be aware of the dangers of social networking sites such as Facebook and Twitter, where postings may reach an unintended audience

optometrists, with 1.29% of the profession, or one in 78 registered optometrists, receiving a complaint against them (General Optical Council 2014a).

The Association of Optometrists reports that, in 2003, 59 cases were reported to the GOC, of which 76% were dealt with without the need for disciplinary hearings (Warburton 2004). This figure decreased in subsequent years, although there was a peak in 2009–2010, with almost one-third of all complaints being referred to the FTP Committee (Figure 5).

Analysis of the GOC annual records for the last 3 years showed that the three most common complaints were for 'spectacle prescription', 'other clinical' and 'multiple (clinical/conduct)', and that often registrants outnumber complaints, as a patient may raise the same complaint against more than one practitioner.

It was difficult to ascertain the reasons for 'criminal' complaints from the GOC annual reports. However, a review of the online FTP hearing reports for 2011–2013 revealed that the most common criminal cases involved theft/fraud, drink-driving cases or drugs-related charges.

The online reports for 2011–2013 also revealed that common reasons for clinical complaint cases included mismanaging patients, not carrying out appropriate tests, recording information incorrectly and misdiagnosis of ocular diseases such as retinal detachment, glaucoma and ocular tumours.

It is clearly desirable for optometrists to practise in a manner which minimises the possibility of a complaint being made against them. In addition to the overarching aim of endeavouring to provide the best possible care for each patient, there are a number of measures practitioners (registered or student) can take to reduce the chances of them becoming involved in a complaint. These measures have been listed in Table 2.

Discussion

The number of GOC registrants has increased year on year up to 2012–2013, where it sits at approximately 24500 optometrists, dispensing opticians and students. It is therefore unsurprising that the number of complaints made to the GOC has also increased annually. Based on the latest figures for 2012–2013, approximately one in 85 optometrists (1.18%: 95% confidence interval (CI) 1.0–1.36%), one in 221 dispensing opticians (0.45%: 95% CI 0.28–0.62%) and one in 258 students (0.39%: 95% CI 0.21–0.57%) are, on average, likely to receive a complaint against them which involves the GOC in any given year. Extrapolating this average figure of 1.18% of optometrists having a complaint made against them over a 40-year period, which is a possible length of career for an optometrist, this suggests that there is a 47% chance of optometrists having a complaint involving the GOC made against them during their career. This figure should be interpreted with great caution, as the percentages of complaints per annum may change over time and not every optometrist is equally likely to have a complaint made against them. During the 3 years from 2010–2011 to 2012–2013, only about one-fifth of all complaints resulted in an FTP hearing.

This figure of one in 85 optometrists on average having a complaint made against them is comparable to complaints made against all specialties of medical practitioners. We find this interesting because optometry could be regarded as a relatively low-risk profession (ie in general, optometrists are not performing high-risk invasive techniques such as surgery or prescribing medications for life-threatening conditions) compared to medicine where these are routinely carried out. There is very little published literature to compare the optometry figures against, but Campbell et al. (2013) showed that pathology, radiology and anaesthetics were the medical specialties which received the lowest proportion of complaints, with one in 120 anaesthetists, on average, receiving a complaint against them per annum. There would seem to be two possible explanations for the rate of complaints against optometrists being comparable with those in medicine. The first explanation could be that community optometry has a distinct business element associated with the profession. The supply and purchase of an appliance, which is an integral part of community practice, may well result in complaints of a commercial/retail nature.

The other explanation could revolve around accessibility of services. Campbell et al. (2013) showed that, out of 11 medical specialties, ophthalmology was the fifth most likely to attract complaints to the GMC in 2009, with a complaint ratio of one in 48 ophthalmologists on average being likely to receive a complaint against them per year. The two specialties in this study with the lowest rates of complaints were pathology (0.58%) and radiology (0.86%). This would appear to reflect the relative inaccessibility of these clinicians, with both pathology and radiology involving tests which are then passed to another specialist. Disciplines such as psychiatry (4.64%), surgery (3.69%) and general practice (3.65%) have higher levels of complaints (Campbell et al. 2013). Surgery has a higher potential for unsatisfactory outcomes, and both psychiatry and general practice are areas where the doctor involved is probably more identifiable because patients usually maintain a consistent relationship and continuity of care with the clinician. Optometry would also fall into this category, with patients more likely to know the name of their clinician. Furthermore, with these one-to-one relationships (psychiatry, general practice and optometry), patients would expect there to be effective communication and sometimes a misinterpretation of these communications can result in dissatisfaction, leading to a complaint.

Interestingly, Campbell et al.'s (2013) study also showed that, whilst general practice, psychiatry and surgery received the most complaints, the percentage of these complaints being advanced to immediate full GMC hearings was comparatively low (psychiatry 21%, surgery 36% and general practice 27%). Conversely, whilst pathology, radiology and anaesthetics had lower overall numbers of complaints, these tended to be of a more serious nature, with more of these cases referred for an immediate FTP hearing (pathology 54%, radiology 46% and anaesthetics 51%) (Campbell

et al. 2013). Presumably this reflects the greater effort required to identify the practitioner against whom the complaint is to be made and therefore the amount of effort involved in achieving this matches the gravity of the complaint.

In medicine, doctors may be referred to the National Clinical Assessment Service (NCAS), which acts at an intermediate level without the need for referral to the GMC. The NCAS was set up in 2001 to 'bring expertise to the resolution of concerns about professional practice and, in doing so, improve patient safety' and, on 1 April 2013, the NCAS joined the NHS Litigation Authority. Its services also provide for dentists and pharmacists as well as medicine and include performance assessment, health assessment, assessment of behavioural concerns, assessment of communicative competence and 'back on track' services (which can help provide further training and support for practitioners who may require it. These services can also help practitioners return to work after a prolonged period of absence, such as a career break, illness or disciplinary proceedings) (National Clinical Assessment Service 2014). This seems to provide a good intermediate service for dealing with clinical cases before they are escalated up to the GMC and perhaps this might be an option in the future for complaints against optometrists.

The Higher Education Occupational Physicians/Practitioners provides medical fitness standards for students in medicine, nursing, dentistry, pharmacy, practitioner psychology, veterinary, social work, radiography, physiotherapy and orthoptics. Currently there are no fitness standards for optometry students (The Higher Education Occupational Physicians/Practitioners 2014).

A recent report in *Optometry Today* (2014) quoted the Chair of the GOC, who stated that:

> In common with most of the healthcare professional regulators we have seen a significant increase in the number of FTP complaints we receive. It is absolutely imperative that this increase does not stand in the way of our continued efforts to speed up the FTP process, in the interests of patients and registrants alike.

Only time will tell if the new system will indeed speed up the FTP process and if the increased number of complaints is a continuing trend.

Summary

The GOC FTP rules changed from 1 April 2014 in regard to preliminary investigations. Case examiners were introduced in an attempt to speed up the investigating process of complaints; prior to the change in the rules, it could take over a year for an outcome to be determined. All the cases within the period covered by this article were considered by either the IC, which comprises a mix of optometrists, dispensing opticians and lay individuals, or by an interim-order hearing. Under the new system, all cases will be reviewed by a pair of case examiners: one will be a lay person and one a GOC registrant. This brings the process more in line with the model used for medicine, which also uses this system of case examiners. Where the case examiners agree, they can dzetermine that a case should be referred to an FTP hearing, that a warning should be issued or that no further action should be taken. If they disagree, then the case must be reviewed by the IC, as it will be if the case examiners believe an assessment of the registrant's health or performance is required (General Optical Council 2014c).

Other changes include a requirement for the GOC to notify a registrant's employer of the outcome of a hearing. Additionally, the registrar is now able to refer cases involving a serious criminal conviction directly to an FTP hearing and other appropriate cases directly to an interim-order hearing (General Optical Council 2014c).

This study has established how likely optometrists are to have complaints made against them via the GOC and what the most likely causes are which result in an FTP hearing. Optometrists should be aware of, and follow, the College Guidelines and strive at all times to do their best for their patients. If they do this, they will – perforce – be less likely to end up in front of the FTP Committee.

Acknowledgements

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CET multiple choice questions

This article has been approved for one non-interactive point under the GOC's Enhanced CET Scheme. The reference and relevant competencies are stated at the head of the article. To gain your point visit the College's website www.college-optometrists.org/oip and complete the multiple choice questions online. The deadline for completion is 30 April 2016.

<please leave space for six questions>

CPD Exercise

After reading this article can you identify areas in which your knowledge of fitness to practise by UK optometrists has been enhanced?

How do you feel you can use this knowledge to offer better patient advice?

Are there any areas you still feel you need to study and how might you do this?

Which areas outlined in this article would you benefit from reading in more depth, and why?