

# Dispute resolution – guidance of Optical Confederation members

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## Context for use

Community optical practice is unique within the primary care family, in that it:

- is highly clinically regulated
- operates in a fully open and highly competitive retail market
- has patients who demand access, quality and choice without waiting
- relies on cross-subsidy by product sales to deliver quality services
- delivers 20 million sight tests a year (high volume) with very few problems or complaints.

The Optical Confederation member bodies and the College of Optometrists sometimes receive inquiries about the issues inherent in balancing quality and volume and what is expected of both practitioners and employers in such circumstances.

Like most HR issues difficulties in this area usually result from poor communication and/or misunderstanding (although there can sometimes also be wider issues). The former can be resolved through better communication, so that the needs of the business and the responsibilities of the practitioner are understood by all.

The member bodies of the Optical Confederation, representing employers, employees and self-employed practitioners have developed the following guidance to assist in resolving any issues that may arise. It is intended for use by Optical Confederation members in advising and supporting employers and practitioners.

## *Employee*

Where the optometrist, dispensing optician or OMP is concerned that they may be being inappropriately judged or that in their view commercial concerns are being given undue priority over professional responsibility

1. The practitioner should discuss this, informally, with his or her line manager to express those concerns and to discuss what may be done to address them.

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2. The practitioner may need to remind the manager if agreed actions are not implemented and should not be embarrassed about doing so – everyone is busy and things can slip the mind.
3. If this does not resolve the issue, the practitioner should make a written list of his/her concerns, setting out the potential consequences of failure to address those concerns, as they see them. This may or may not include:

for patients:

- risk of poor clinical service – missed diagnosis, misdiagnosis, poor refraction, incorrect prescription
- risk of buying unnecessary spectacles/lenses

for the employee:

- fitness to practise called into question/loss of registration if complaint made to GOC
- loss of job if registration is lost or if patient complains to employer
- potential for civil case if pathology is missed
- lower rewards if inappropriate targets set

for fellow staff members:

- potential loss of income if reputation of the practice is damaged
- potential involvement in court case or GOC case if complaint is made

for the business:

- demotivated staff
- loss of reputation
- loss of customers
- fitness to practise called into question/loss of GOC registration.

This list should be given by the employee to his/her line manager, with a request for a meeting to discuss the issues raised.

4. The line manager should arrange a meeting. During the meeting, employer and employee should explain clearly their own point of view on the issue raised and give clear reasons for that view including:
  - any guidelines or regulations with which the employee must comply in order to fulfil the obligations on them as the member of a registered profession
  - any guidelines or regulations with which the business must comply if it is a registered body corporate

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- any business or other goals to which the line manager and/or practitioner is working
- any possible conflicts between the above and who these might be resolved
- any agreements (contractual or otherwise) between the two parties that are relevant
- any aspects of the patient population/cohort the practice or practitioner is serving which may affect the above.

Discussions should cover alternative strategies for achieving business or other goals without compromising:

- patient safety
  - patient interests
  - the professional integrity of the practitioner
  - the professional integrity of the practice owner
  - fairness to other staff
  - the viability of the practice.
5. If no agreement can be reached at the meeting, the employee should consider escalating the issue by referring the matter to the Director of Professional Services or Superintendent Optometrists (where one exists) within their organisation.
  6. In most cases agreement – and any necessary support/training etc – should be able to be reached during the above stages.
  7. If not, the practitioner may wish to consider using the employer’s whistle-blowing protocol where one exists.
  8. The practitioner may also wish to consider, where appropriate, using the company’s grievance procedure, where one exists.
  9. Where no agreement is possible, the employer will no doubt follow their own internal performance management and HR processes.
  10. The practitioner should raise the matter with his or her representative body for further advice.

## **Employer/manager**

Where an employer or manager is concerned that a practitioner may be under-performing when compared with their peers, e.g. by testing inefficiently, poor record-keeping, or by not advising the patient of the appropriate range of vision correction options, good HR practice is that:

1. They should raise their concerns informally with the practitioner and discuss ways in which those concerns may be addressed.

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2. If this does not resolve the issue they should raise the issue formally in writing<sup>1</sup> with the practitioner, in line with their normal HR practices, expressing the concerns and listing what should be done by the practitioner to address the concerns and the consequences of failing to do so. The employer should reassure the practitioner about the support that is/will be given to ensure that the practitioner meets the ethical requirements of his/her profession, including the [GOC Codes of Conduct](#), the [College of Optometrists Code of Ethics and Guidelines for Professional Conduct](#) and the [ABDO Advice and Guidelines](#).
3. If this still does not resolve the issue, a more formal meeting should be called by the manager, at which the issues should be openly discussed and solutions which meet the needs of both sides discussed.
4. If agreement cannot be reached the manager should normally discuss the matter with the Professional Lead in the organisation, e.g. Director of Professional Services or Superintendent Optometrist (or equivalent), for the company.
5. If this is unsuccessful, the employer should follow their normal HR/disciplinary procedures to deal with the issue. They may also wish to seek further advice from their Optical Confederation representative body if need be. When all other avenues have been exhausted, formal disciplinary procedures may be required.

For further advice, please contact your representative body:

ABDO: [kdocker@abdo.org.uk](mailto:kdocker@abdo.org.uk)

Tel: 01227 733912

AOP: [legal@aop.org.uk](mailto:legal@aop.org.uk)

Tel: 020 7549 2020

FODO: [rebecca@fodo.com](mailto:rebecca@fodo.com)

Tel: 020 7298 5107

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<sup>1</sup> This may be by a formal note of the meeting.

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## Appendix 1

### Relevant regulations and guidelines:

#### Opticians Act:

[http://www.optical.org/en/about\\_us/legislation/opticians\\_act.cfm](http://www.optical.org/en/about_us/legislation/opticians_act.cfm)

#### Scottish GOS Regulations - consolidated:

[http://www.aop.org.uk/uploads/uploaded\\_files/GOS/Scotland/gos\\_regulations\\_2006\\_with\\_2011\\_amendments.pdf](http://www.aop.org.uk/uploads/uploaded_files/GOS/Scotland/gos_regulations_2006_with_2011_amendments.pdf)

#### GOC Code of Conduct for Individual Registrants:

[http://www.optical.org/goc/filemanager/root/site\\_assets/publications/codes/codes\\_of\\_conduct.pdf](http://www.optical.org/goc/filemanager/root/site_assets/publications/codes/codes_of_conduct.pdf)

#### GOC Code of Conduct for Business Registrants:

[http://www.optical.org/goc/filemanager/root/site\\_assets/publications/codes/codes\\_of\\_conduct\\_for\\_business\\_registrants.pdf](http://www.optical.org/goc/filemanager/root/site_assets/publications/codes/codes_of_conduct_for_business_registrants.pdf)

#### ABDO Advice and Guidance:

[www.abdo.org.uk/adviceandguidelines.php](http://www.abdo.org.uk/adviceandguidelines.php)

#### College of Optometrists Guidance:

On professional integrity:

<http://www.college-optometrists.org/en/utilities/document-summary.cfm/FB1F6104-589D-46F3-9B0AA2883B731E50>

On the patient-practitioner relationship:

<http://www.college-optometrists.org/en/utilities/document-summary.cfm/C4061C61-60A8-4017-9FEACD3CA1562312>

On patient-practitioner communication:

<http://www.college-optometrists.org/en/utilities/document-summary.cfm/21B14AC5-7BD1-4F4A-A1FC08319B93C399>

#### CHRE Statement on Whistle-Blowing:

[http://www.optical.org/goc/filemanager/root/site\\_assets/codes\\_of\\_conduct/chre\\_whistleblowing\\_statement.pdf](http://www.optical.org/goc/filemanager/root/site_assets/codes_of_conduct/chre_whistleblowing_statement.pdf)