GOC seeks views on changes to business regulation - FODO response

FODO - the Association for Eye Care Providers, is the leading national association for eye care providers in the UK. Our members provide the majority of primary eye care, including over 18 million sight tests a year and a wide range of other NHS eye care services.

Introduction

If you select that you are responding on behalf of an organisation, please ensure that you have consent from the organisation to do so.

What is your name? (optional)

What is your email address? healthpolicy@fodo.com

Are you responding on behalf of an organisation? If you answer yes to this question, please ensure that you have consent to respond on behalf of the organisation.

☒Yes

☐No

What is the name of the organisation you are responding on behalf of?

FODO - the Association for Eye Care Providers

Which category best describes the organisation you are responding on behalf of?

☐ GOC business registrant

☐ Optical business (but not a GOC business registrant)

☐ CPD provider

☐ Education provider

☐ Patient representative charity/organisation

☒ Optical professional/representative body

☐ Government department

☐ Commissioning body

☐ Other

Scope of regulation

Please refer to paragraphs 30-31 of the consultation document together with annexes 2-3 for more information.

Q1. To what extent do you agree or disagree that GP practices and hospitals (NHS and independent) carrying out restricted functions listed in paragraph 23 should be exempt from GOC business regulation?

☒ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals).

Provided the services in question are led by a GMC registrant, such as an OMP/ophthalmologist, then we would support this proposal.

This is because medically-led practices and hospitals are already regulated - e.g. by Healthcare Improvement Scotland (HIS), Healthcare Inspectorate Wales (HIW), The Care Quality Commission (CQC), The Regulation and Quality Improvement Authority (RQIA), The Care Inspectorate (CI) or Care Inspectorate Wales (CIW).

While these regulators do not specifically regulate the restricted functions listed in paragraph 23, the regulatory framework covers higher risk healthcare and organisational system/controls, and therefore any additional regulation by the GOC would be disproportionate. This blanket exemption however needs further consideration (see our response to question five).

Q2. Do you think that commercial units operating in GP practices and hospitals that are providing the restricted functions listed in paragraph 23 should be regulated by the GOC?

☒ Yes

☐ No

☐ Not sure

Please explain your reasoning (including any unintended consequences of our proposals).

As with our response to question one, if the unit is led by a GMC registrant and is already regulated by HIS, HIW, CQC, RQIA, CI or CIW then there is no reason for the GOC to regulate based solely on how care is funded.

If the commercial service is operated/led by a GOC registrant independently of the GP/hospital (i.e. the actual provider organisation of the commercial service does not fall under HIS, HIW, CQC, RQIA, CI or CIW regulation) then it should be regulated by the GOC.

To ensure this is the case, any exemptions need to be carefully designed (see our response to question five).

Q3. To what extent do you agree or disagree that charities providing the restricted functions listed in paragraph 23 should be regulated by the GOC?

☒ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

Our responses follow better regulation principles which mean that regulation should be proportionate and based on objective rather than ideological criteria. This means there is no basis on which to make universal assumptions about incentives/behaviour based solely on organisational form.

Hence, unless a charity falls under the example in question one, if the GOC's proposed reforms to business regulation do proceed then charities providing restricted functions listed in paragraph 23 should be regulated by the GOC on the same basis as other providers.

In summary, if the GOC is to regulate providers delivering restricted functions listed in paragraph 23 there must be an objective basis on which to offer an exclusion (see our response to question five).

Q4. To what extent do you agree or disagree that university eye clinics providing the restricted functions listed in paragraph 23 should be regulated by the GOC?

☒ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

Please see our response to question three. University clinics which provide restricted functions under listed paragraph 23 should be regulated by the GOC on the same basis as other providers.

Q5. To what extent do you agree or disagree that the GOC should have a discretionary power to exempt particular businesses from registration?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☒ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

Given the case the GOC is making to extend business regulation, there would seem to be no objective case for discretion at an individual business level. Instead, we believe, the GOC should be explicit about exemptions and the reasons for them.

With this and proportionality in mind, we would advise that if reforms are to proceed then all organisations that provide restricted functions listed in paragraphs 23 would be regulated by the GOC, *unless* provided/led by a GMC registrant working in a setting that is already regulated by HIS, HIW, CQC, RQIA, CI or CIW.

Q6. To what extent do you agree or disagree with our proposal to remove the requirement for some bodies corporate to have a majority of registrant directors?

☒ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

We agree with the reasoning the GOC has set out in annex 3, paragraph 92.

Models of regulatory assurance

Please refer to paragraph 32 of the consultation document together with annex 4 for more information.

Q7. Should all businesses be required to appoint a head of optical practice?

☒ Yes

☐ No

☐ Not sure

If there are businesses that you think this arrangement should not apply to, please explain which ones and your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

We agree with the proposal to remove the requirement for a majority of directors to be registrants (see our response to question six).

We also support the concept of a head of optical practice (HOP) as set out in annex 4, implemented proportionately.

Many FODO members also agree this should be a registrant, however some members have raised technical challenges that might arise if this is the only option. Based on member feedback we therefore feel this would benefit from further discussion as it could disproportionately impact on smaller practice owners (e.g. some of the issues listed in paragraph 92 could be read across to a poorly designed HOP role) and have unintended consequence (see our response to question 10-13 and 23).

Q8. To what extent do you agree or disagree with the proposed responsibilities for the head of optical practice?

☐ Strongly agree

☒ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

We agree with much in the overview (annex 4 paras 97, 98 and 100) of the HOP role. However, see our responses to question nine and 10.

Q9. To what extent do you agree or disagree that the head of optical practice should have responsibilities around the adequacy of arrangements for training placements?

☐ Strongly agree

☐ Somewhat agree

☒ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

This depends on the type of organisation. For example,

- in a smaller practice this is most likely to be the same person in any case
- in some larger organisations, it might be necessary to have more than one HOP and a large team with a different head of department leading training and education
- in other organisations, it might be that each practice has a HOP, but training and education is organised centrally.

Education and training are increasingly specialist areas and some HOPs, who are more than able to take on the main practice-based role, might wish to delegate/discharge responsibilities for training and education to/via a separate specialist – e.g. a lead optometrist at head office.

On balance it would seem sensible that registered businesses or a HOP should be able to allocate this responsibility to another registrant. Of course, given the HOP role, they would still be involved in oversight at a systems level.

In addition, it is possible that an academic or medic (that are not GOC registrants) might lead on training placements in some clinical settings where functions listed in paragraph 23 are provided.

Being overly prescriptive runs the risk of the GOC regulating a variety of job descriptions with the unintended complications that could flow from that.

Q10. To what extent do you agree or disagree that the head of optical practice should be a fully qualified GOC individual registrant?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☒ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

As we set out in our response to question seven, while most feedback we received supports that this should always be a GOC registrant, we also received some feedback about challenges the current proposal from the GOC might create for smaller practice owners.

As set out in para 121, some businesses will not be able to comply with this specific requirement and will need an exemption as stated – e.g. enabling "compliance responsibility resting with the business registrant" (para 121, page 46). We welcome the GOC acknowledging this and we would support such an exemption if well designed.

In addition to the example set out in para 121, mandating that the HOP is always a GOC registrant could also prove difficult for other organisations if the HOP must also be directly employed by the practice (see question 11) and not work across multiple businesses (see question 12). For example:

- a lay practice owner might depend on part time GOC registrant or locums if the resident HOP is off for a sustained period due to ill-health etc. If the practice owner is required to employ an additional GOC registrant to hold the HOP role or pay a locum to become an employed optometrist and HOP, many smaller practices might become financially unviable, especially given that the NHS in England and the health service in Northern Ireland do not currently appropriately fund the cost of an NHS/health service sight test.

In paragraph 92 the GOC sets out several arguments against the GOC maintaining majority registrant director requirements, it is apparent that some of these would apply to the HOP role if the restrictive criteria proposed in this consultation remain. For example:

- overly restrictive criteria for the HOP role could make it difficult for some businesses to sell their practices or result in the purchaser not paying the full value – e.g. if a lay practice owner sells their business post the proposed reforms, they might only be able to sell to a GOC registrant unless their store has a significant margin for another lay owner to be able to absorb the cost of a HOP. This could result in more small practices closing.

Given the variety of organisational models and other complexities in implementing the HOP (see our responses to questions 11, 12 and 23), we feel that the time before any legislative change could be used to further clarify how the HOP role would operate in practice to mitigate these risks/costs/consequences. This would also be important as some businesses might wish to start to work towards a HOP model ahead of legislation.

We would be very happy to discuss these in more detail with the GOC and other sector bodies as proposals are developed further post consultation.

Q11. To what extent do you agree or disagree that the head of optical practice should be an individual employed by the business?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☒ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

Whilst most businesses are likely to employ the HOP, there might be sound reasons for also allowing the HOP role to be fulfilled by a contractor, for example:

- the need to cover a period of sick leave
- the need to cover a period in which a new HOP is being recruited
- smaller businesses might struggle to find an employed optometrist who wishes to take on the responsibilities of a HOP and a business owner might need to hire in additional resource to help them manage this (also see our response to question 10, 12 and 23)

As we set out in our response to question 10, we feel that more work with stakeholders would be helpful to refine how the HOP role will operate in practice pre-legislation.

Q12. To what extent do you agree or disagree that an individual should not be a head of optical practice for multiple businesses?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☒ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

Whilst we understand and share the GOC's wish to avoid a situation in which "someone performs a nominal or consultancy role across multiple businesses" (para 125), the reality is that business structures in optics can be complex and this needs further thought. For example, a head office might in fact have oversight of many subsidiaries and therefore on paper a HOP might in fact work across multiple businesses very effectively.

While we acknowledge, that para 97 sets out the HOP is expected to have "overall responsibility for the conduct of the business in accordance with the GOC's regulatory arrangements" and para 98 provides more detail on HOP responsibilities, it might still be feasible in some cases for a HOP to work across multiple businesses.

For example, a parallel example comes from data protection, where a provider can hire/share a data protection officer and other compliance specialists to help them comply with increasingly complex areas of regulation. Equally, there are scenarios in which it might serve patients better for smaller practices to rely on an external more experienced HOP to ensure compliance than a reluctant employee.

Further, if a small practice has a single highly valued employed optometrist who can only work part time because they have caring responsibilities and cannot take on the HOP role, then the GOC's proposals to require HOPs to be employed and not to support multiple practices could result in less good patient safety outcomes. Such restrictions on the HOP role could also create complexities with existing employment law, the Equality Act 2010 and put smaller practice owners are risk of having to close – e.g. having to hire an additional GOC registrant to be the HOP which the practice income cannot support (see our response to question 23).

At the same time, one can imagine a scenario in which a part-time optometrist is the only GOC registrant working at a small practice but does not wish to hold the HOP role but nevertheless is responsible for ensuring safe and effective care in their clinics. If they are supported by an external HOP who works across multiple businesses and this is the model that is viable for a practice, then it seems sensible to permit this and other models that could work well for patients in real world settings.

Needless to say, the practice owner/directors would need to act on the advice of an external HOP contracted to advise in exactly the same way an employed HOP and both kinds of HOP would have the same duties to raise concerns if necessary with the GOC.

Q13. To what extent do you agree or disagree that the GOC should have a power to introduce a separate set of conduct standards for the head of optical practice should this be required in the future?

☐ Strongly agree

☒ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

We note that, in para 102, the GOC does not consider a separate set of standards will be necessary at this stage but wishes to have the power to introduce these if required in the future.

We support this as, subject to the GOC's response to our feedback on question 10, if exemptions are extended for some lay practice owners to fulfil HOP functions, then separate set of standards for non-GOC registrants might be helpful in the future.

Q14. To what extent do you agree or disagree that the GOC should specify in rules/guidance essential characteristics of a head of optical practice that businesses should satisfy themselves are met?

☐ Strongly agree

☐ Somewhat agree

☒ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

The FCA and other regulators have such criteria/principles. However, in those sectors, firms are not appointing individuals who are already regulated in their own right in that specific sector/specialism. In the case of a HOP being a GOC registrant, it is therefore difficult to imagine what the GOC would define as "essential characteristics" that are not already covered in existing registrant standards.

Subject to the GOC's response to our feedback to question 10 and, if exemptions are extended for some lay practice owners to fulfil HOP functions, then for those practices setting out the characteristics of non-registrants appointed to the HOP role might be helpful.

Q15. To what extent do you agree or disagree with our proposal for the name of the head of optical practice to be listed on the GOC register of businesses?

☐ Strongly agree

☒ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

The FCA has a similar approach. GOC registrants are also already on the register, so there is no significant impact with respect to data in the public domain.

Q16. To what extent do you agree or disagree with our proposal for individuals acting as a head of optical practice to have an annotation against their entry on the GOC register of individuals?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☒ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

This would be unnecessary and could also cause confusion – e.g. where an individual registrant works across multiple practices but has a HOP role at just one practice.

Listing HOP(s) next to the business entry would be clearer for patients and the public (see our response to question 15 and question 23 regarding why a practice should be allowed to list more than one HOP).

An additional point to consider is how the register would be organised/published for when a business is registered but has multiple practices and has opted to appoint a HOP at each practice or a group of practices within a region etc.

Enforcement approach and sanctions

Please refer to paragraphs 33-34 of the consultation document together with annex 5 for more information.

Q17. In relation to the GOC's powers to impose a financial penalty on business registrants, which option do you favour?

☐ Power to impose an uncapped financial penalty

☐ Linking the financial penalty to turnover

☒ A new maximum amount (replacing the current £50,000 financial penalty cap)

Please explain your answer, including any advantages, disadvantages and impacts.

Of the three options proposed – owing to the complexity and variety of optical business models – any financial sanction based on turnover would not be workable in this sector. For example, what constitutes turnover of a GOC regulated entity would be significantly influenced by the following business models:

- A single limited company for all practices supported by a common purchasing organisation
- Separate limited companies for each practice in joint venture/franchise models
- A combination of a single limited company for owned practices plus separate joint venture/ franchise limited companies
- Operating opticians' practices as a part of a much larger trading company involved in other forms of retailing.

We can expand on and provide wider examples if required.

In addition, turnover is different from profit - a business can have a large turnover but still be making a loss. In such scenarios it is unclear how a sanction based on turnover would help protect the public, for example if it made it more difficult for a provider to investment in improvements.

Hence, if the GOC did have powers to impose a financial penalty based on turnover, it would be difficult to use such a regulatory tool effectively and proportionately in the UK, given the wide range of business models and complex global supply chains. It is therefore not clear under which circumstances a financial penalty based on turnover for primary eye care services would protect the public. For these reasons we think linking a financial penalty to turnover is an unviable option.

That leaves the options of unlimited financial penalties or an uprating of the current maximum level.

Taking unlimited financial penalties first and noting the GOC's view that "there is no evidence of any immediate risks to public protection in terms of the powers we currently have" (para 149). We feel that taking such a power would be disproportionate in the optical sector, especially as the GOC does not present any solid evidence in its consultation that a power to impose unlimited fines would be required or would be effective.

Furthermore, the criteria for unlimited fines would be subject to the same issues as applying a fine based on turnover – e.g. the GOC could not consider a legal entity it did not regulate (a global head office) when imposing a fine on a legal entity it did regulate.

There is also the important issue of how financial penalties would be imposed if the GOC had this power. While we appreciate that Fitness to Practice (FtP) panels would operate within guidelines and seek to do so proportionately and on advice, we have experience that this is not always the case, and many businesses would not be able to afford the High Court costs of an appeal.

We understand that no changes can be made until primary legislation is amended. However, as a sector, we do want to encourage as many optical businesses as possible to come into registration before that and not to challenge the Section 60 order when it comes forward for consultation. The fact there is no evidence provided to justify the GOC having the power to impose unlimited fines would mean that the GOC seeking such a power would most likely discourage potential business registrants from supporting regulatory change in the first instance, again not benefiting the public.

In our view this leaves powers to impose a maximum fine.

While we note the PSA's perception of power imbalances and strategic importance in primary care settings (para 146), we believe the PSA misunderstands the realities of the optical sector in the context of healthcare in general. For example, three NHS trusts in London have a larger turnover than the entire UK optical market and are in fact 'too big to fail'. The CQC and NHS commissioners also have more significant issues re asymmetric power than exist in primary eye care settings. Also, the NHS has a system to manage providers that are in fact too big to fail via its licencing regime in England for example. Hence, there is no logical deduction that can be drawn from organisations on this scale to make a case of unlimited financial penalties in primary eye care settings.

As Table 2 page 49 shows, the GOC already has powers to impose a financial penalty of £50,000 on both individual and business registrants, and the referenced GOC guidance states the main purpose of sanctions is to protect the public [1]. It is not clear that the GOC has ever used a serious financial sanction on an individual, despite the volume and range of adverse fitness to practise outcomes at a registrant level. This, along with the tone/framing of the consultation, suggests the GOC incorrectly thinks that 'companies' are only incentivised by fines. As the GOC's own data/evidence shows, the sector serves patient interests very well, and organisations are incentivised to deliver high value care for many reasons of which the potential of a financial penalty is only one.

We would also make the following further points:

- in a complex market with state-funded care and self-funded care, it might be difficult to establish the root cause of any systems failure.

- While the GOC states it only regulates 50% of optical businesses, it is important to be clearer with the government and public that it currently regulates businesses that provide more than 80% of primary eye care provided in the UK. The GOC's own consultation provides evidence that the sector is working well and provides no evidence to support the case for new powers to impose more significant fines.

- It is a myth that providers are not already regulated. They must already comply with a wide range of other regulatory requirements be it via the HSE, ICO, employment law, competition law, etc. GOC sanctions should therefore focus more on ensuring compliance with/around the protected functions in paragraph 23 and protecting the public – e.g. in some cases it might make more sense to require a provider to make investments in specific systems/control as opposed to the GOC collecting monetary penalties.

- Crucially, large as well as small businesses already take the issue of the 'up to £50,000' financial penalty extremely seriously. A GOC fine is a serious public sanction which impacts heavily on the providers brand reputation, which is key to their success and survival. Past fines have had serious sector impact and led to businesses taking all possible steps to prevent and avoid ever being in the position of incurring a fine themselves. Its deterrent effect is therefore far greater than any possible financial sums involved.

- If a provider needed to be closed for regulatory reasons, this could be achieved by erasure from the GOC register preventing them from delivering the restricted functions in paragraph 23.

- Finally, it is recognised however that the current maximum fine level is out of date owing to inflation and should, when possible, be up-rated to reflect inflation since it was introduced under the Section 60 Order in 2005 which has stood the test of time. (We have not been able to trace its origin in previous legislation despite the references in the consultation document and note the uprated value is different to that set out in the consultation document.)

- It is also no longer best practice to set out such issues as maximum financial regulatory penalties in primary legislation.

- We would prefer therefore a power for the GOC periodically to set a maximum penalty in regulations and even for the to be able to be uprated or reduced annually by the GOC without further regulations by reference to an accepted official published inflation/deflation rate. This should be limited to £50,000 uplifted for inflation from 2005.

We would be very happy to discuss this further with the GOC.

Endnote

[1] GOC, 2021, Hearings and indicative sanctions guidance, https://optical.org/media/v4abwdbu/hearings-and-indicative-sanctions-guidance-final.pdf

Q18. To what extent do you agree or disagree that introducing a power to visit businesses as part of the fitness to carry on business process could give the GOC greater powers to protect patients and the public?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☒ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

We agree with the GOC's prior analysis that there is no evidence to support regular or routine inspections. This would pose a significant and unnecessary cost on eye care in the UK.

That is why we cautiously welcomed the outcome of the GOC's previous consultation which concluded that practice visits would only take place as part of a Fitness to Practise (FtP) process. However, the examples given on pages 56-57 are unlikely to cross this threshold. For example:

- scenario one appears to demonstrate that a performance concern has been raised by the business with an individual registrant, and an employee has reported this to the GOC as a business regulatory matter
- scenario two seems to require nothing which could not be addressed by a photo or video of the premises, plus a standard operating procedure, room allocation log and statements.

If the GOC regulated hospital eye departments and took a similar approach, it is likely they would be visiting departments on a weekly basis. The CQC and other UK equivalents do not regulate hospitals at this level of detail. It is therefore unclear on what basis the GOC would use such powers and for what purpose.

This leads us to our major concern and objection which is that, however tight the visiting protocol might be, there is a risk that an actual FtP process could be prejudiced by a poorly executed practice visit. This is why it is vital that any new system does not undermine existing fairness rules.

It is also not clear who would visit a practice and what expertise they would have. For example, case examiners currently reach decisions on papers only and do not cross-examine witnesses. FtP panels only cross-examine witnesses based on previously submitted witness statements, and with the Panel benefiting from 'in person' legal advice in doing so. Again, any visit would need to avoid prejudicing an FtP process.

In short, it is not clear how the GOC could use such powers in a safe and proportionate way based on the information provided.

On balance therefore we would prefer the GOC not to seek to take this power but, first, to make better use of its existing powers to call for any documents to help it better make regulatory decisions. These could include of policies, operating procedures, maps, diagrams and photos/videos of practice, consulting room layouts and equipment etc - in fact nothing which would be added to by a practice visit.

It may be helpful for the GOC to model one or two such cases and test the need to visit with stakeholders before proceeding further. Equally the GOC could produce anonymised examples of where a visit might have been helpful in recent cases so the need for this power can be better understood/evidenced. It would also be helpful to understand why modern technologies cannot be used to meet any perceived gaps in powers – e.g. a video of a practice layout – as opposed to increasing regulatory costs for all registrants through a practice visit regime.

Without such evidence we cannot support this proposal.

Consumer redress

Please refer to paragraph 35 of the consultation document together with annex 6 for more information.

Q19. To what extent do you agree or disagree that it should be mandatory for business registrants to participate in the consumer redress scheme?

☐ Strongly agree

☒ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

If the GOC is eventually permitted to regulate all businesses providing the restricted functions listed in paragraph 23, then mandating a business to be part of a consumer redress scheme could help avoid regulatory time being taken up with consumer product type complaints. These are best resolved as quickly as possible at local level or, if not, by referral (currently) to the GOC quality-assured OCCS.

Even with such a requirement on contractors, however, patients/consumers could not be forced to accept findings of any redress scheme (without further complex legislation which governments of any stripe would be likely to resist).

Patients/consumers can also already go to Trading Standards or the Small Claims Court which is now an online and relatively simple process for product-related matters.

Nevertheless, if it is possible for the GOC to require use of a quality assured system such as the OCCS and the GOC is confident that its governance arrangements can demonstrably manage any conflicts of interest into the future, we would support this proposal.

Q20. To what extent do you agree or disagree that the consumer redress scheme should have powers to make decisions that are legally binding on businesses?

☐ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☒ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

There is no evidence that this is necessary. The GOC evidence is clear that the current system works very well, it is quick and efficient and adding more duties and red tape for businesses is likely to increase costs for all without benefits for the majority.

Q21. To what extent do you agree or disagree with our proposal to continue with our current model of delivering the consumer redress scheme i.e. a single provider through a competition for the market model?

☒ Strongly agree

☐ Somewhat agree

☐ Neither agree nor disagree

☐ Somewhat disagree

☐ Strongly disagree

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

We agree with the GOC's analysis. The current scheme is proportionate, popular with patients and works very efficiently.

Q22. How should any consumer redress scheme be funded?

☒ Every business contributing through the registration fee

☐ A pay per use model whereby the business pays for any complaint made against them that is considered by the scheme

☐ A combination of the above two models

☐ Other (please specify)

☐ Not sure

Please explain your reasoning (including any unintended consequences of our proposals and how they could be mitigated).

In the same way as it would be unworkable for individual registrants to fund more of the GOC costs if they get a complaint/concern, it would be impractical and add to bureaucracy for businesses to have a pay per use model. It could also result in less provider support for customers accessing such services (especially from a business struggling to meet expectations).

A model where all registrants pay the GOC fee and the GOC procures an efficient service, works cost-efficiently and effectively and ensures there is a level playing field for patients/consumers and registrants with poor providers exiting the market sooner than if there were a pay per use model.

Impact assessment

Please refer to paragraph 37 of the consultation document together with the draft impact assessment for more information.

Q23. Are there any aspects of our proposals that could discriminate against stakeholders with specific characteristics? (Please consider age, sex, race, religion or belief, disability, sexual orientation, gender reassignment, gender identity, gender expression, pregnancy or maternity, caring responsibilities or any other characteristics.)

☒ Yes

If yes, please explain your reasoning.

The way in which the Head of Optical Practice (HOP) has been specified and restricted might have a negative impact. For example,

- might suggest there is a single head role and, other things being equal, more likely to be offered to somebody working full time as opposed to part time
- a registrant that works part time because they are bringing up a child or looking after a parent, might not feel they can take on additional HOP responsibilities. Where a practice cannot afford to hire more than one person to simply fill the HOP role this might have a negative impact on those groups which are more likely to have caring responsibilities
- in addition, businesses might wish to employ more than one HOP – e.g. job shares as people capable of doing the job need to work part-time for personal reasons.

Q24. Are there any aspects of our proposals that could have a positive impact on stakeholders with specific characteristics? (Please consider age, sex, race, religion or belief, disability, sexual orientation, gender reassignment, gender identity, gender expression, pregnancy or maternity, caring responsibilities or any other characteristics.)

☒ No

If yes, please explain your reasoning.

Welsh language

Q25. Will the proposed changes have effects, whether positive or negative, on:

(i) opportunities for persons to use the Welsh language, and

☒ No

(ii) treating the Welsh language no less favourably than the English language?

☒ No

If yes, please explain your reasoning.

Q26. Could the proposed changes be revised so that they would have positive effects, or increased positive effects, on:

(i) opportunities for persons to use the Welsh language, and

☒ No

(ii) treating the Welsh language no less favourably than the English language?

☒ No

If yes, please explain how.

Q27. Could the proposed changes be revised so that they would not have negative effects, or so that they would have decreased negative effects, on:

(a) opportunities for persons to use the Welsh language, and

☒ No

(b) treating the Welsh language no less favourably than the English language?

☒ No

If yes, please explain your reasoning.

Any other areas

We would like stakeholders to let us know about any other areas that we have not specified in this document that they think are relevant to business regulation.

Q28. Please tell us about any other areas relevant to business regulation that are not covered by this consultation.

While we appreciate business registration fees are not within the scope of this consultation, the cost of regulation will be an important factor in assessing the cost-benefits of the GOC's plans. As the GOC would be generating more revenue (growth in registrants) but any increase in the cost of regulation would be marginal, we would expect fees to remain broadly as they are or reduce. It is important to avoid adding significant new costs to provider organisations who are often already funding individual registrant fees for their employees.

Consent to publish your response

If you select 'Yes', this option will allow us to use quotations from your response alongside your name or the name of your organisation.

If you select ‘Yes, but please keep my name and/or my organisation’s name private’, this option will allow us to use quotations from your response but we will not use your name or the name of your organisation.

If you select ‘No’, this option will allow us to take your response into account as part of our analysis but we will not be able to use quotations from your response.

Can we publish your response?

☒Yes

☐Yes, but please keep my name and/or my organisation’s name private

☐No

Equality, diversity and inclusion consent

[….] If you are responding on behalf of an organisation, please do not respond to these questions.