

DOMICILIARY EYE CARE COMMITTEE

INDEPENDENT ADJUDICATOR – TERMS OF REFERENCE

These Terms of Reference (TOR) set out arrangements for handling complaints about the provision of domiciliary eye care services in the UK which have been referred to the Independent Adjudicator (IA). They have been agreed by the Optical Confederation and the Independent Adjudicator.

Purpose of the Independent Adjudicator (IA) scheme

The primary purpose of the IA is to investigate and if appropriate provide impartial, informal and non-binding arbitration on complaints made by one UK domiciliary provider about another. The scheme covers complaints about any domiciliary provider represented by a member body of the Optical Confederation (OC).

A secondary purpose of the scheme is to identify issues and learning which may have wider relevance for domiciliary providers generally, including issues requiring new or amended good practice guidance.

The Independent Adjudicator process does not seek to circumvent the role of the General Optical Council or the Optical Consumer Complaints Service. Any complaints received that should be dealt with by either of these organisations will be referred onto them immediately.

As detailed on page 4 under monitoring and reporting, the IA will provide an annual report to the Domiciliary Eyecare Committee.

Governance

Appointment and role of the IA

The IA is appointed by the Chief Executives of the member bodies of the OC. The appointment and the IA's terms of reference (this document) are reviewed every three years, or sooner should an issue arise that requires the document to be amended.

The IA operates independently of the OC (and its member bodies) and its Domiciliary Eyecare Committee (DEC), any other professional body, provider, practitioner or other party.

The IA has a standing invitation to meetings of the DEC. By agreeing to the TOR, members of the DEC have agreed that the IA will have jurisdiction to review and address any complaints submitted to him by the DEC Secretary.

Support functions

The IA receives administrative support from the DEC secretary.

Conflicts of interest

The IA is required to act impartially and to avoid any real or perceived conflicts of interest when handling complaints. The IA will take the risk of a conflict of interests into account when deciding whether to accept a complaint (see ‘the complaint handling process’ below). A summary of the IA’s optical sector interests is available on request from the DEC Secretary.

If the IA is unable to accept a complaint, or to continue investigating a complaint they have already accepted, because of a risk of real or perceived conflict of interest, they will advise the complainant of this and explain what other options are available. In such cases the scheme will not be able to consider the complaint further.

The complaint handling process

Complaining to the IA

Complainants can send the details of their complaint (marked ‘confidential’, and including their identity and contact details, the identity of the provider they are complaining about, and the circumstances of the complaint) by email or in writing to the secretary of the DEC:

DEC Secretary 0207 298 5151/ domiciliary@opticalconfederation.org.uk
199 Gloucester Terrace, London W2 6LD

The DEC Secretary will log the complaint and acknowledge it within 7 days of receipt.

The Secretary will undertake a preliminary review of a complaint and will manage and respond to those cases which raise minor concerns which can easily be resolved or where it simply requires a clarification of existing regulations or guidance. An anonymised summary of any such cases will form part of the IA’s annual report.

All complaints which cannot be easily resolved, where the Secretary is uncertain, or where the complainant has stated explicitly that they want it to be reviewed by the IA alone, will be passed to the IA for consideration.

If a complainant wants to send their complaint directly to the IA for reasons of confidentiality, they can contact the secretary of the DEC to arrange this.

Deciding whether to accept a complaint

When the IA receives a complaint, they will consider the following questions:

1. Is the complaint about a provider(s) of domiciliary eye care services in the UK?
2. Is the complaint against a provider rather than an individual practitioner (unless they are one and the same)?
3. Is the complaint appropriate to be considered by the IA, rather than by another body such as the Optical Consumer Complaints Service or the General Optical Council?

4. Is the complaint new? – the IA will not investigate a complaint that has previously been submitted to the IA or considered by another body (such as the GOC/ OCCS)
5. Is the IA able to investigate the complaint without a real or perceived conflict of interest?
6. Is there no valid reason why the IA should not investigate the complaint?

If the answer to all of these questions is “yes”, the IA will investigate the complaint using the process described below.

Where the IA concludes that they cannot accept a complaint they will explain to the complainant in writing why they have not accepted the complaint and, where appropriate, will explain what other options are available to the complainant. There is no right of appeal against a decision by the IA not to accept a complaint.

In cases where the IA is of the opinion that the complaint may raise concerns of fitness to practise or breach of GOC regulations, then the IA will inform both parties that they will refer the matter to the GOC or appropriate NHS/ Public Health body.

Investigating complaints and deciding what should happen

If the IA decides to investigate a complaint, they will inform the provider which is the subject of the complaint (the provider) and seek their agreement to the complaint being investigated. If the provider does not agree, the IA cannot continue with the investigation and should notify the Chief Executive of the OC member body that represents that provider. The IA will then discuss other options available to the complainant such as the OCCS.

If the provider does agree to the IA investigating the complaint, the IA will:

- if necessary, request more information about the circumstances of the complaint from the complainant
- invite the provider to submit information about the circumstances of the complaint
- consider the information provided by the parties and (if necessary) seek more information from either party, or others, as appropriate
- decide whether the provider should do anything to resolve the complaint – for instance, making changes to operational policies or procedures, communications, publicity or staff training.

The provider will, within a timeframe for response specified by the IA:

- assist the IA in any necessary internal investigations
- disclose any reasonable information relating to the complaint.

If the IA requests information and a party fails to provide it within the specified timeframe, the IA may report this to the Chief Executive of the OC member body that represents the party concerned.

If either party asks the IA to treat information they provide as confidential, the IA will only take such information into account in deciding on the outcome of the complaint if the party providing the information agrees that the IA can share a suitably redacted version with the other party.

All complaints will be considered taking into account the most recent Optical Confederation Domiciliary Eyecare Code of Practice and other DEC guidance, the General Optical Council's (GOC) rules including the Standards of Practice for Optometrists and Dispensing Opticians, Standards for Optical Businesses, professional guidance issued by the College of Optometrists and the Association of British Dispensing Opticians and relevant NHS guidance.

The IA may also take into account any relevant previous complaints about the provider.

Having reviewed all the available information about the complaint, the IA will consider what outcome is fair and reasonable in all the circumstances.

Resolving complaints

When the IA has reached a conclusion regarding a complaint, they will communicate their conclusion, any recommendations and, where appropriate, a brief summary of their reasoning to both parties and to the Chief Executive of the relevant OC member body.

If the IA has concluded that there is no case to answer or that no action is required, they will explain that to both parties, declare the complaint closed and (if appropriate) advise the complainant of any other options available to them.

If the IA has concluded that the provider should take an action, they will discuss the next steps with the provider and (if appropriate) the complainant. If the IA and the provider cannot agree on next steps, the IA will:

- report this to the Chief Executive of the OC member body that represents the provider
- advise the complainant of any other options available to them, which may include approaching the OCCS, GOC or an appropriate NHS body.

There is no right of appeal against the IA's decision. The IA scheme is non-binding and the parties are free to decide whether or not to accept the decision.

Monitoring and reporting

At their discretion the IA may agree to monitor the implementation and effectiveness of any action arising from a complaint and to advise or report to one or both parties on progress.

The IA will produce an anonymised annual report setting out:

- the number of complaints received
- a summary of the complaints received and resolved by the Secretary of the DEC

- the number of complaints the IA has investigated
- the outcomes of those complaints
- any wider issues for the sector identified as a result of the IA's investigations.

The report will not name the parties to complaints and will not include information which could allow the parties to be identified.

Data protection

All information about a complaint will be securely stored in line with the Data Protection Act by the DEC secretary or (in cases where a complainant has sent their complaint directly to the IA) by the IA for five years after the date on which the complaint is closed. It will then be securely destroyed but the DEC secretary may keep a summary of the complaint's subject matter and outcome for the IA's reference in considering future complaints about the same provider.

Funding and supporting the IA service

The general administrative costs of providing the service will be met by FODO as part of the secretariat function for the DEC.

Any expenses for the IA and how they will be funded will be agreed by the Chief Executives of the OC member bodies.

The costs of each investigation will be met by the OC member body of which the party complained about is a member up to a maximum of £500 per case, at which point the Chief Executives of the member bodies will review how best to fund any wider costs.

Depending on circumstances the Chief Executives of the OC member bodies may decide to add the IA to their member publications lists to ensure they are kept up to date about optical sector matters and developments.

GUIDANCE FOR POTENTIAL COMPLAINANTS

I'm unhappy with a domiciliary provider – who should I complain to?

First, please consider raising your complaint directly with the provider concerned and giving them an opportunity to sort things out.

If you have already tried that, or if you think your complaint would be better handled by an independent body, your choice about who to complain to will depend on what the complaint is about and how serious it is:

- if you're a customer or patient of a domiciliary provider, and are unhappy about the service they've provided, you can contact the [Optical Consumer Complaints Service](#) – an independent and impartial mediation service funded by the General Optical Council. They will try to find a resolution that you and the provider are happy with.
- if you're a provider of domiciliary eye care and have a complaint about the activities of another domiciliary provider, you can contact the Domiciliary Eyecare Committee's Independent Adjudicator via the Committee's Secretary on domiciliary@opticalconfederation.org.uk or 0207 298 5151. They will acknowledge your complaint within 7 days of receipt and will consider what should be done to resolve the issue, and will try to agree an outcome with you and the other provider.
- if you have serious concerns about a domiciliary provider's fitness to carry on business, or about a practitioner's fitness/ ability to safely practise, you can contact the [General Optical Council](#), which regulates registered optical professionals and businesses.
- if you have a complaint regarding NHS funded services, you can contact NHS England by email on england.contactus@nhs.net stating 'for the attention of the complaints manager' or telephone 0300 311 22 33
In Northern Ireland further information is available here:
<http://online.hscni.net/contact-us/getting-involved/>
In Scotland complaints can be submitted here <https://nhsnss.org/contact-us/>
In Wales further information is available here:
<http://www.wales.nhs.uk/ourservices/contactus/nhscomplaints>

There is no fixed time limit, but it is advisable to raise any concerns or complaints as soon as possible to give the eye care provider the opportunity to resolve any issues