



THE COLLEGE OF OPTOMETRISTS

Fitness to Practise Complaints Strategy: Policy for consensual disposal of cases: A draft for consultation 9 August 2017

Thank you for giving us the opportunity to respond to this consultation.

Consultation question 1 – What are your views on our proposals about when consensual disposal should be considered?

Generally if consensual disposal can reduce stress for the registrant and complainant and keep costs down, it must be considered a good thing. However, we agree that not all cases would be suitable and we feel that the detail of these proposals needs to be worked up before it is possible to say whether they are appropriate.

It is difficult to say whether your proposals are appropriate in relation to when consensual disposal should be considered because there is little detail about the types of cases that might be suitable nor about those which would be unsuitable.

Consultation question 2 – What factors should be taken into account when deciding whether a case is suitable for consensual disposal?

The seriousness of case. Public trust in regulators is crucial and, if cases are dealt with by these means that have involved serious consequences for patients, there is a danger that the perception will be that the GOC's fitness to practise procedures are not transparent and public trust will be eroded.

The sanctions. This is linked to the above point. Is it appropriate for a serious case that may result in erasure to be taken forward through discussion with a case officer?

Consultation question 3 – What are your views as to whether discussions between the registrant and the GOC about consensual disposal should take place on a “without prejudice” basis (see paragraph 5.2)?

This sounds good in principle. However, what would happen if subsequently the case was no longer considered suitable for consensual disposal. Would the GOC then use what was said during these discussions, even though what was said was ‘without prejudice’?

Consultation question 4 – To what extent does consensual disposal represent a fair and proportionate way of protecting the public?

It could do but what would happen if the complainant was a vulnerable member of the public? While choosing a suitable FtP process is up to the GOC, it is important that complainants did not feel that they have not had a chance to have their point of view heard openly. There is a danger that it might be seen as the GOC working with the profession behind closed doors rather than protecting the public by ensuring that there is a fair hearing.

The document is clear that it is not a plea bargaining process, but is there a danger that it could be perceived as such?

How would the GOC demonstrate that professional standards were being upheld? The registrant may attend, but there does not appear to be provision for the complainant to do so.

Currently, an added check for public protection is that the PSA can appeal an FtP hearing judgement. Would that still be the case for an uncontested hearing?

Consultation question 5 – What are the likely impacts of consensual disposal for: a) registrants? b) the public? c) the GOC?

Registrants

The advantage would be reduced stress and as the outcome would be achieved more quickly. However, what processes would be put in place to ensure that the registrant really was happy with what was being proposed.

Public

This is a bigger concern. Again, if the matter were to be resolved more quickly, then that would be beneficial to the complainant. But what if the complainant felt that their side of the story was not being properly put over? This might particularly be true of vulnerable patients.

Could the concept of discussions behind closed doors undermine the public's trust in the profession? How will the wider public be sure that it is being protected from misconduct and poor performance?

The GOC

Savings in terms of cost. However, there would be a danger that trust in the GOC as a regulator could be undermined if it were perceived that decisions were not being made in a transparent manner.

What would be the checks and balances to ensure fair and consistent processes for all parties?

Consultation question 6 – Do you have any further comments on our proposed policy for consensual disposal which are not captured in your responses to the questions above?

There are many advantages to this process for all parties, but it is essential that the pitfalls are thought through very carefully.

More detail is needed to ensure that this method of dealing with fitness to practise cases is fair to all parties, consistent and capable of upholding professional standards.



Cindy Tromans
Chair
Board of Trustees