

# General Ophthalmic Services

## Contract Compliance Framework

April 2009

### Introduction

Following the introduction of a new contract for the General Ophthalmic Services on 1 August 2008, PCTs have a renewed interest in formally reviewing the compliance of NHS ophthalmic contractors, both new and existing, with the requirements of their GOS contracts and with relevant legislation.

The NHS Primary Care Contracting Team (PCC) was approached by PCTs to offer a steer on good practice relating to compliance with the new contracts. As a result of these requests we have developed a contract compliance framework to support PCTs in monitoring contractors' compliance with their NHS contract requirements and with relevant legislation.

The framework consists of:

1. This Introduction
2. Ophthalmic Contract Visit Form
3. Post Payment Verification Protocol with questionnaire, patient enquiry letters and guidance from the Counter Fraud and Security Management Service of the NHS Business Services Authority
4. Post visit questionnaire for Contractors

Additional components may be inserted at a later date.

Much of what is in the contract is carried over from the old General Ophthalmic Services Regulations or draws specifics from what were broad discretionary powers. However, in the first year in particular, PCTs should be mindful that the new GOS contract is a new way of working for practices as well as PCTs and PCTs should be sensitive to how the contract is working from the contractor's perspective.

It is recommended that PCTs approach contract reviews in a supportive and developmental, rather than a confrontational way, and seek to understand how contractors are complying with the contract. Keeping monitoring to a realistic minimum in the first instance, by applying a light touch approach will bring significant benefits in the longer term. Sharing and discussing the overall contract compliance framework with optical contractors and performers via the LOC is sensible although the LOC should never be given a right of veto; nor should the PCT seek to impose requirements beyond the contract, although these may of course be discussed with the LOC and agreed locally.

Although PCTs may wish to design and implement their own contract compliance arrangements, PCTs have said it would be helpful for PCC to develop this common resource, which could help to avoid unnecessary duplication by PCTs. PCTs may of course, also add any additional locally agreed compliance criteria to the framework that they feel are appropriate and that have been discussed with the LOC.

This framework concentrates on contractual obligations although PCTs may also want to carry out monitoring in relation to clinical governance. The Department of Health has confirmed that clinical governance as a category is not within the General Ophthalmic Services contract but there are specific contractual requirements and relevant legislation which might in other circumstances be considered elements of clinical governance. PCTs have a right to this information as set out in the contract.

If PCTs decide to seek information from contractors which goes beyond the contractual requirements of the GOS contracts and relevant legislation, a remuneration package for those contractors who agree to provide this information should be offered. It would be sensible to seek the views of the LOC on this remuneration package before the information is sought unless the PCT wants to obtain a sample, in which case they might discuss this with specific contractors but again the LOC would have an expectation of being consulted.

It may be helpful to reiterate what the contractual requirements of the GOS contracts are in relation to the provision of information. Paragraph 14(2) of Schedule 1 to the General Ophthalmic Services Contracts Regulations requires contractors to produce any information which is reasonably required by the PCT for the purposes of, or in connection with, the contract; and any other information which is reasonably required in connection with the PCT's functions. Reasonable is a flexible term but should take account of the relatively low levels of risk in optics, the burden of the request on the practice and the cumulative burden of compliance requests on the practice.

Clause 59 of both the mandatory and the additional services contracts reflects these requirements.

# Principles

## Principles underpinning the contract compliance framework

- **Consistency**

It is important when monitoring the new ophthalmic contract that PCTs take a consistent and fair approach. Monitoring the new contract for eye care should be in line with other key workstreams and principles adopted across NHS organisations/staff groups and providers locally and nationally, and be generally the same wherever it is applied in terms of location or type of provider. This should not detract, however, from allowing some local flexibility.

- **Collaborative/Supportive**

Engagement of potential stakeholders in the development and operation of the compliance framework will be important. PCTs should seek to develop and maintain a constructive relationship with all optical contractors, and are likely to find it useful to discuss compliance plans with their Local Optical Committee.

- **Clarity of purpose**

Monitoring should have a clear purpose and be legally robust in order to justify PCT decisions. PCTs should approach contract compliance with this in mind.

PCTs should be clear about the aims and objectives of any practice visit or information request and ensure they are as open and transparent as possible. PCTs should provide contractors with details in advance of the scope of a visit, including who from the PCT will be attending.

PCTs may decide not to visit all practices formally in the first year but if they do this they will have to ensure that practices understand the PCT's reasons and criteria for taking a differential approach. Openness is a key aspect of contract compliance and local co-operation.

# Components

## Component parts of the contract compliance framework

### 1. This introduction

### 2. Ophthalmic Contract Visit Form

This Contract Visit Form is intended for use both for new practices and triennial revisits. Most of the content is non optional and references to the statutory and contractual authority for each item are shown in bold italics. The numbers refer to the clauses in the model contracts. **Exceptions to this are highlighted with grey background shading.**

### 3. Post Payment Verification (PPV) Protocols

These comprise the following:

#### 3. PPV protocol (April 2009)

**3A.** PPV Optical Questionnaire for practices to complete prior to the visit

**3B.** Ophthalmic post-payment verification guidance from the Counter Fraud and Security Management Service (CFSMS) of the NHS Business Services Authority

These PPV documents are provided "as is" as models for PCTs to adapt and use locally if they wish to do so. NHS Primary Care Contracting is not qualified to advise on their use and PCTs should take up any queries about using them with their own Local Counter Fraud Specialist (LCFS) who will no doubt refer any matters unresolved locally to the CFSMS as necessary.

### 4. Post visit feedback questionnaire for Contractors

Usage of this by Contractors is optional but PCTs should appreciate the opportunity for feedback which this affords them.

# Standards for Better Health

## Relationship between the Contract and Standards for Better Health

There is no direct correlation between much of the GOS Contract and Standards for Better Health (S4BH). Certain elements are common such as the new non discrimination provisions in the GOS Contract, the public safety requirements around infection control and adherence to the requirements of the MHRA in respect of spectacle assembly and in relation to Medical Device Alerts and Safety Alert Broadcasts. Where there are requirements under the contract or under relevant legislation then PCTs have a right to ask for all reasonably required information.

PCTs may be concerned at the need to show S4BH compliance by optical contractors as part of their annual healthcheck by the Care Quality Commission (until 1 April 2009 the Healthcare Commission). These PCTs could usefully encourage (but should not attempt to compel) their optical contractors to complete the online self assessment process offered at the Quality in Optometry (QiO) website at [www.qualityinoptometry.co.uk](http://www.qualityinoptometry.co.uk)

This website has been set up jointly by the national optical bodies and offers four levels of self assessment, Levels 1 to 4. Much of Level 1 covers basic GOS Contract compliance issues and other legal or mandatory compliance. Level 2 is about good clinical practice and falls largely outside the terms of the GOS contract. It is directly cross referenced to S4BH Core Standards. Levels 3 and 4 relate to S4BH aspirational standards.

PCTs which encourage their optical contractors to complete QiO self assessment at Levels 2 and above and to report the results back to the PCT are much more likely to achieve high levels of contractor compliance if they offer their contractors a suitable, locally negotiated and funded remuneration package for this.

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