

GOC response to our consultation on CET exceptions policy

October 2021

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Introduction

1. The General Optical Council (GOC) is one of 13 organisations in the UK known as health and social care regulators. These organisations oversee the health and social care professions by regulating individual professionals. We are the regulator for the optical professions in the UK. We currently register around 30,000 optometrists, dispensing opticians, student opticians and optical businesses.
2. We have four primary functions:
 - setting standards for optical education and training, performance and conduct;
 - approving qualifications leading to registration;
 - maintaining a register of those who are qualified and fit to practise, train or carry on business as optometrists and dispensing opticians; and
 - investigating and acting where registrants' fitness to practise, train or carry on business is impaired.

Background to policy

3. Continuing Education and Training (CET) is a statutory requirement for all fully-qualified optometrists and dispensing opticians. All fully-qualified registrants must earn a minimum number of CET points and meet a minimum set of requirements by the end of each cycle to stay on the register.
4. Our [CET Rules](#) provide that *“the Registrar may remove or refuse to retain (a) the name of a registrant or (b) particulars of a registered specialty, if the registrant has failed to meet the CET requirements under the Rules”*. Although the CET requirements are mandatory for all registrants, the Registrar has discretion to decide whether to remove or refuse to retain a registrant, or to decide not to do so. We consider that this discretion should be exercised fairly and consistently, and therefore introduced the [Exceptional circumstances in completing CET requirements](#) policy in 2015 to outline how this would be achieved. The current policy advises that in exercising their discretion as to whether to remove or refuse to retain a registrant, the Registrar will consider exceptional circumstances that are unforeseen or are over and above everyday experiences, resulting in a registrant being unable to practise and therefore unable to undertake CET.
5. The policy represents a reasonable means to identify the circumstances in which the discretion of the Registrar may be exercised which balances fairness for registrants with the need for public protection. As with all GOC decisions, we act in a way that supports the GOC's statutory obligations, is consistent, and follows a fair process.

6. We have used the policy on two occasions since its inception – at the end of the 2013-15 and 2016-18 CET cycles. We have considered the learning from the application of the policy and reviewed it to ensure that it continues to be fair to registrants while ensuring our overarching objective of protecting the public.
7. We consulted on the following proposals:
 - focusing on public protection and removing the list of examples of exceptional circumstances;
 - increased transparency in the decision-making process;
 - expectations around maternity, paternity and adoption leave; and
 - widening the policy to cover registrants who were able to practise.

Consultation process

8. We undertook a full [public consultation](#) on our proposed updates to the policy, which was open for 12 weeks from 15 April to 8 July 2021.
9. We sought stakeholders' views on our proposed updates to the policy ahead of the end of the 2019-21 CET cycle.
10. We received 28 written consultation responses from a range of stakeholders including optical representative organisations and our registrants. These were made up of:
 - 20 optometrists
 - one dispensing optician
 - six professional/representative bodies
 - one government arms-length body
11. The professional/representative bodies who were willing to be named were:
 - Association of British Dispensing Opticians (ABDO)
 - The Association of Optometrists (AOP)
 - The College of Optometrists
 - FODO – The Association for Eye Care Providers
 - Optometry Wales Educational Sub-Committee
12. We are grateful for all the feedback we received and have taken this into account in deciding how to amend the policy.

Approach to producing this response

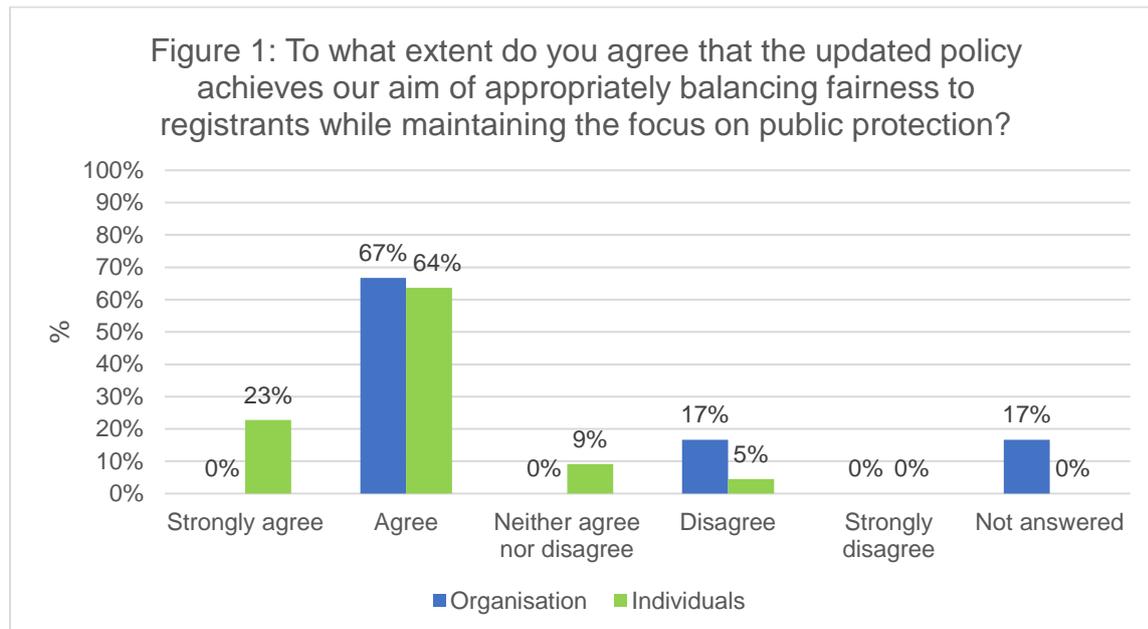
13. Respondents were encouraged to provide comments where they did not support our proposed approach. We did not actively seek comments where

respondents indicated support for our approach but some respondents gave these anyway. We reviewed every comment received. We are unable to include individual responses to all of these comments within this report. Any comments that have been included are produced verbatim.

Findings

Balancing fairness to registrants while maintaining focus on public protection

14. We asked respondents to what extent they agreed that the updated policy achieves our aim of appropriately balancing fairness to registrants while maintaining the focus on public protection. Overall, there was good support from both individual registrants (87% strongly agreeing or agreeing) and professional/representative bodies (67% agreeing).



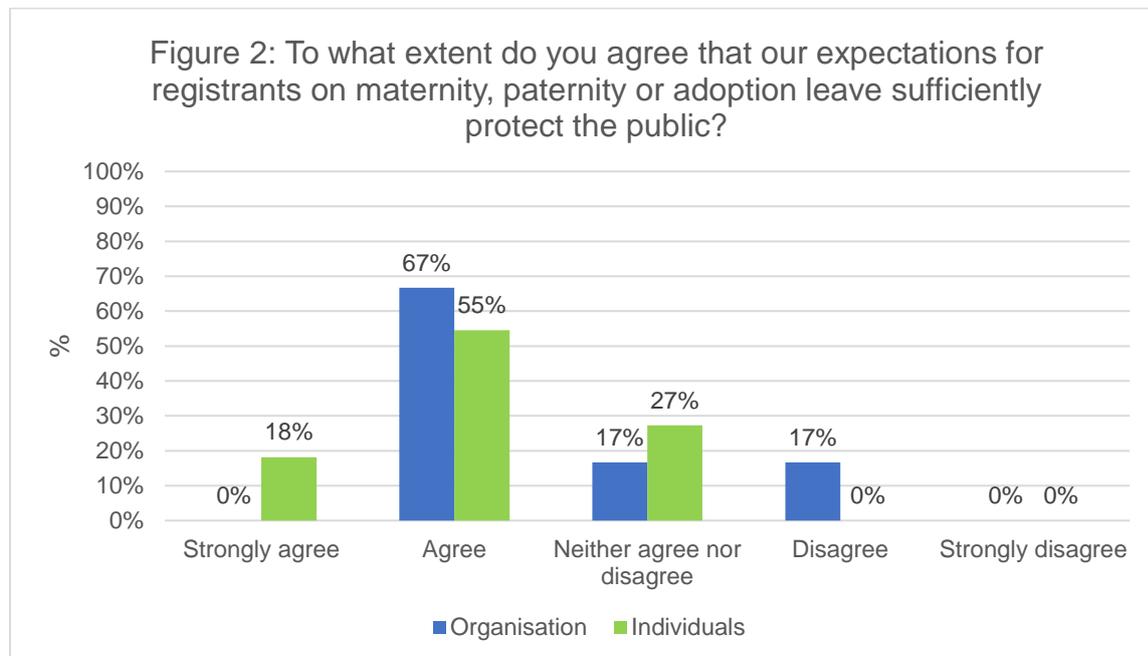
15. A sample of comments is available in the box below. FODO asked us to consider expanding our expectations for those on maternity, paternity or adoption leave to other caring responsibilities and compassionate leave.
16. It was also suggested that a more appropriate way of determining competence would be through a back to work course.

“The policy rightly seeks to address child-raising related reasons for non-completion of CET requirements, but it should equally explicitly mention other caring responsibilities and compassionate leave for serious illness of (and not only death) of a close family member.” FODO

“If there has been a period of absence from work through whatever reason, rather than basing safety on points accrued prior to this absence, a more productive and safer way to determine competence/patient safety would be to have “back to work” courses to gain all the CET points lacking, thus ensuring on return to practice they are safe and fit...” Anonymous organisation

Expectations for registrants on maternity, paternity or adoption leave

17. We asked respondents to what extent they agreed that our expectations for registrants on maternity, paternity or adoption leave sufficiently protect the public. Overall, there was good support from both individual registrants (72% strongly agreeing or agreeing) and professional/representative bodies (67% agreeing).



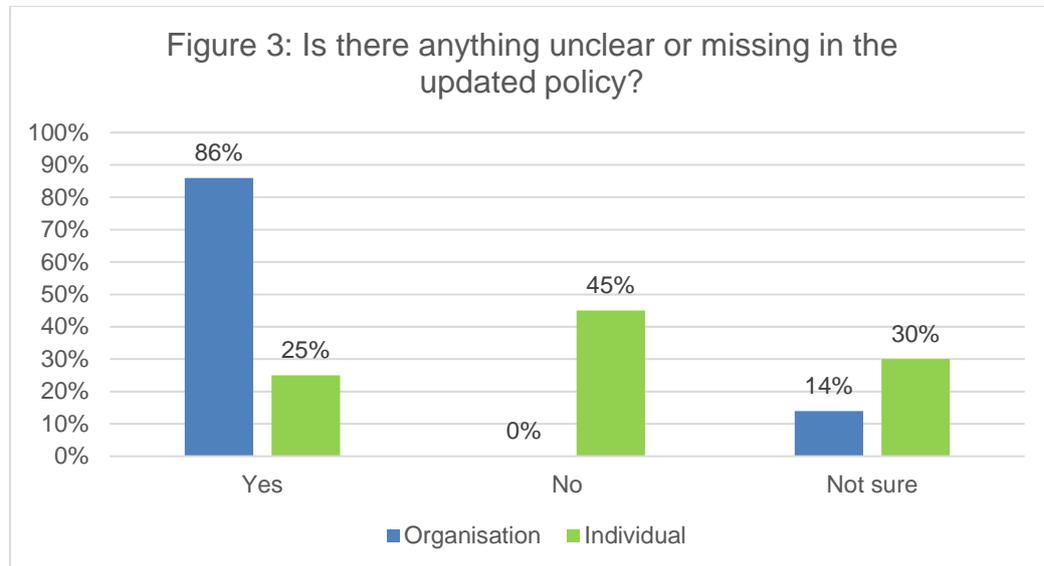
18. A sample of comments is available in the box below. One organisation did not agree with our approach and felt that it may be unfair for someone who has been ill during their pregnancy. FODO thought the approach appeared fair but mechanistic, and felt that a return to practice course should be considered as an alternative.

“... 1 point per month on the register is not the best way to judge competency. Someone who may have been very ill during their pregnancy could not manage to work and gain CET points...24% of registrants using exceptional circumstances were on maternity compared to 9% of other registrants, so need to make gaining CET easier for this group – consider not requiring to accrue during periods of non-practising and doing back to work course instead.” (Anonymous organisation)

“The ‘point a month’ rule seems a fair but rather mechanistic approach to public safety. For this reason, even if the registrant has not been able to complete this level of CET, we would support the proposal from [redacted] that completing a ‘return to practice’ course instead should be considered an equally effective way of safeguarding the public...” (FODO)

Clarity of the policy

19. We asked respondents whether there was anything unclear or missing in the updated policy. Almost all organisations (86%) felt that there was something unclear or missing in the policy, with a quarter of registrants also responding in the same way.



20. Areas that were considered to be unclear or missing were as follows:

- lack of availability of interactive continuing professional development (CPD) during COVID-19;
- poor internet connection making it difficult to connect to online CPD;
- registrants should be given credit for qualifications or those engaging in research and teaching that are not directly awarded CET points;
- how many points are expected if a registrant has a baby, is working part time or has other responsibilities;
- a grace period in which to complete CET;
- stress related factors such as bereavement;
- explanation as to why case studies were accepted or rejected (and what else the registrant could have done to avoid being rejected), particularly case study 5 re peer review which seems harsh given the misunderstanding about requirements;
- expectations for those not on maternity, paternity or adoption leave, particularly those on other types of planned leave such as for caring responsibilities, a health procedure or a career break;

- supporting evidence requirements;
- length of time in practice as a factor for consideration could imply that experienced registrants may be treated more favourably than others;
- suggestion to expand the list of factors to include consideration of whether the registrant has completed CET that is relevant to their own specific learning needs and scope of practice;
- request to add to the list of factors that whether or not a registrant is working will be considered;
- the tone of the policy is forbidding rather than neutral; and
- request to consider whether our updated policy should explicitly state that disruption caused by the pandemic is a factor that will be considered in the decision-making process.

21. A sample of comments is available in the box below.

“Despite the inclusion of examples of relevant factors that will be taken into account when considering an application, the reasoning behind the decisions to accept or reject the applications in the case studies is unclear; explanation as to why the case studies were accepted or rejected would be beneficial.” Optometrist

“Section 4.3 regarding appropriate supporting evidence is not clear if a letter e.g. from a GP, regarding ill health relates both in the circumstances of a registrant being in ill health, and a registrant applying for exception owing caring for someone who has been in ill health. It is possible those applying owing to caring responsibilities may not feel this includes them or that they are unable to apply. Additionally, we would expect those applying owing to paternity, maternity or adoption leave to also have to provide evidence of this leave of absence from work, including time frames, and this section seems appropriate to state that.”
ABDO

“Section 4.2.1 of the policy says that the GOC will take into account a registrant’s length of time in practice, and implies that experienced registrants may be treated more favourably than others. This could be unfair to recently qualified registrants; in some respects a registrant who has only recently completed their clinical training may be a safer practitioner than one who qualified a long time ago, and the circumstances of each case will be different...” AOP

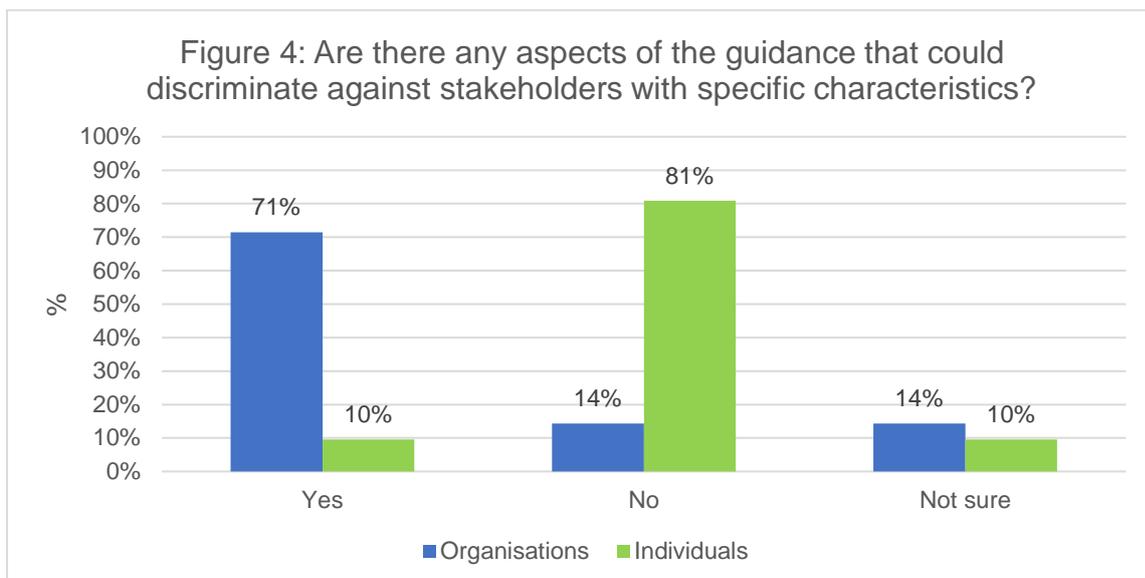
“It is not clear from the policy why these provisions only apply to people on maternity, paternity and adoption leave. We understand from the GOC team that their policy aim here is to ensure that those on such leave are treated fairly, and that the expectation of at least one CET point a month is intended to give registrants on planned leave a reasonable and supportive steer about the number

of points they should plan to achieve. We support this aim, but think the approach set out in section 4.4 of the policy should also apply to registrants taking other types of planned leave, such as time off to take on caring responsibilities, to undergo a healthcare procedure such as an operation, or to take a career break.”
AOP

“We know that tone is hard to get right but the tone in this policy is forbidding rather than neutral (and hence encouraging of practitioners to come forward)... Putting public safety first is not incompatible by being more encouraging of registrants who may feel there is just no point in bothering trying to explain to the GOC, potentially resulting in dedicated clinicians leaving the register.” FODO

Discrimination against stakeholders with specific characteristics

22. We asked respondents whether there were any aspects of the guidance that could discriminate against stakeholders with specific characteristics, and gave the list of protected characteristics from the Equality Act 2010 as examples. Most organisations (71%) felt this was the case, although in contrast 81% of individuals did not agree.



23. Areas that could be seen to discriminate were as follows:

- registrants living on the poverty line who can't afford fast internet;
- people of older age groups who do not like online learning;
- not mentioning anything about miscarriages or loss of baby during pregnancy could discriminate, unless we would consider this under serious illness;

- the nature/extent of documentary evidence required for illness/maternity etc needs to be more detailed as it may be deemed discriminatory; and
- unclear whether the policy will specifically consider the impact of COVID-19 and therefore on those disproportionately impacted by the pandemic – could reduce indirect discrimination if it did.

24. A sample of comments is available in the box below.

“While not discriminating against those characteristics protected by the Equality Act 2010 it does adversely affect practitioners that live on the poverty line who can't afford faster internet etc and may be availing themselves of benevolent funds due to the affects of COVID.” Dispensing optician

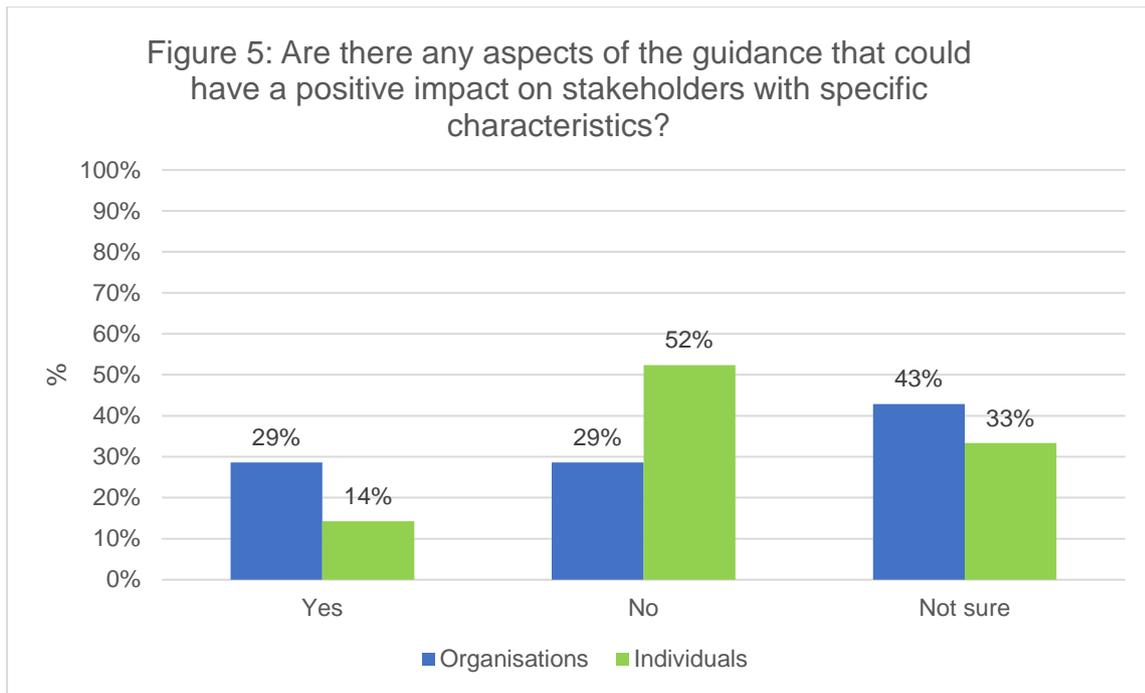
“The policy does not mention anything about miscarriages or loss of baby during pregnancy, this could discriminate against stakeholders with specific characteristics unless you would consider this under serious illness.” The College of Optometrists

“...the provisions in section 4.4 of the policy to support registrants who take maternity, paternity or adoption leave are welcome, but could lead to real or perceived unfairness for other groups with specific characteristics, such as those with caring responsibilities or those undergoing a planned healthcare procedure that relates to a specific characteristic. Our proposed change to section 4.4 of the policy would resolve this problem.” AOP

“...the draft is not sufficiently inclusive of non child-related caring responsibilities or compassionate absences from practice, or sufficiently inclusive in tone, which may deter put some registrants from explaining why their CET was not completed when they have perfectly reasonable explanations of, and solutions to this, which do not put the public at risk. Equally not making exceptional arrangements for pregnant women and new mothers seems unfair, unethical and discriminatory.” FODO

Positive impact on stakeholders with specific characteristics

25. We asked respondents whether there were any aspects of the guidance that could have a positive impact on stakeholders with specific characteristics, and gave the list of protected characteristics from the Equality Act 2010 as examples. Responses were mixed amongst the organisations (29% answered yes and 29% answered no), with 52% of individuals answering yes.



26. Areas that could be seen to have a positive impact were as follows:

- disability;
- new mothers;
- expectations of those on maternity, paternity or adoption leave;
- those temporarily not working; and
- taking into account registrants' individual circumstances.

27. A sample of comments is available in the box below. All of the comments we received under this question pointed out positive aspects.

"Where disability impacts the ability to carry out cet." Optometrist

"It treats new mum's more fairly by reducing the points requirement." Dispensing optician

"...people who are temporarily not working will get some exemptions and that can be helpful." Optometry Wales Educational Sub-Committee

"...the provisions in section 4.4 of the policy are potentially helpful to those taking maternity, paternity or adoption leave, and should be expanded so that they also help others taking planned leave, including people with specific characteristics such as caring responsibilities." AOP

Any other impacts

28. We asked respondents if there were any other impacts of the policy that they would like to tell us about. This question allowed for free-text comments only.

29. Areas raised under this question were as follows:

- it would be helpful to indicate if you will consider cases as a result of the COVID-19 pandemic;
- rejecting an application on the basis of not completing peer review seems harsh;
- welcome of the removal of the requirement that registrants must have been unable to practise to be considered under the policy; and
- increased transparency has the potential to promote fairness and reduce uncertainty, which could in turn help to boost workforce morale and retention.

30. A sample of comments is available in the box below.

“You do not cite COVID-19 in the policy and some registrants may have been unable to attend or access CET for the last two years as a result of the pandemic. It would be helpful to indicate if you would look at this on a case by case basis or whether you would not consider any exceptions since online CET has been available.” The College of Optometrists

“In the examples of decisions from previous cycles Case 5 seems severe, for a registrant to have completed every other aspect of their requirements and be under the mistaken belief they had fully completed their peer discussion...” ABDO

“We particularly welcome the removal of the requirement that registrants must have been unable to practise in order to be eligible to be retained on the register under the exceptions policy, and the proposal to take into account CET completed before and after the relevant cycle when taking decisions under the policy. These changes have the potential to create fairer outcomes for registrants who have been unable to complete the full CET requirements, without any downside in terms of public protection.” AOP

Conclusions

Amendments to the policy

31. On the basis of feedback received during the consultation we have decided to make the following amendments to the policy that we consulted on:
- we will emphasise that the Registrar will first consider the registrant's reasons for not meeting their CET requirements and whether they took all reasonable steps to meet their requirements but were unable to do so due to exceptional circumstances beyond their control;
 - we will clarify that issues associated with the COVID-19 pandemic could be an example of an exceptional circumstance beyond the control of the registrant;
 - we will re-order the factors that the Registrar will take into account in their decision-making process, with the size and nature of the CET shortfall and the amount of CET undertaken being at the top of the list (adding specific reference to specialist requirements);
 - we will update the factors that the Registrar will take into account in their decision-making process, including:
 - reference to how long and how recently the registrant has been practising;
 - reference to having recently completed further and/or higher education;
 - amending the reference to 'non-accredited' training to 'non GOC-approved' training; and
 - adding 'whether the applicant has completed CET that is relevant to their own specific learning needs and scope of practice' as an example of 'any other relevant factors';
 - we will update the list of examples of evidence to include an employer's letter confirming length of maternity, paternity or adoption leave, and add 'of self or close family member' in relation to applications involving serious ill health;
 - we will clarify that we would not have the same expectations for registrants on maternity, paternity or adoption leave if they had also experienced ill health during their pregnancy;
 - we will amend the term 'case studies' to 'examples' to emphasise that they are examples of decisions from previous cycles;

- we will update the examples of decisions from previous cycles to include reasoning on why we decided to approve or reject the application;
- we will amend two of the examples of applications we rejected under the policy to demonstrate a broader range of examples, including where an application was not considered to be an exceptional circumstance; and
- we will make some minor updates to the application form to clarify examples of evidence required, to reflect some of the updates we will make to the list of factors that will be considered, and to update the declaration.

Balancing fairness to registrants while maintaining focus on public protection

32. Overall, the vast majority of respondents felt that the updated policy achieved our aim of appropriately balancing fairness to registrants while maintaining the focus on public protection.
33. We note comments that expectations for those on maternity, paternity or adoption leave could be extended to those registrants on other types of planned leave, particularly those with caring responsibilities or those undergoing a health procedure or career break. Our policy aims to address circumstances where there are specific statutory protections for significant periods of leave (i.e. maternity, paternity and adoption leave). We therefore do not think it is appropriate to give expectations for other types of leave, but we will keep this under review (for example, if statutory expectations for carer's leave were to be extended) to ensure that any particular groups of registrants are not unfairly affected.
34. In the meantime, any registrant who goes on a period of leave for reasons other than maternity, paternity or adoption, and is not able to complete their CET requirements, is welcome to submit an application for consideration of their circumstances under the policy.

Expectations for registrants on maternity, paternity and adoption leave

35. We note that overall the approach to expectations for registrants on maternity, paternity and adoption leave was welcomed. However, there were also some comments around a return to work/practice course being a more appropriate measure than expecting registrants on maternity, paternity or adoption leave to have completed the equivalent of at least one point for each month that they had been on the register during the cycle and not on maternity, paternity or adoption leave. We are considering a separate return to practice policy to advise registrants and employers where registrants have been out of practice for a period of time and will be exploring this with the professional/representative bodies later in the year. We do not feel that the

comment requires any amendments to the current policy at this point in time, as any return to practice course undertaken by a registrant who had not met their CET requirements would be taken into account in the factor relating to ‘any other steps taken to maintain their skills’.

Clarity of the policy

36. Overall, there was mixed opinion on the clarity of the policy, with most organisations feeling that there was something unclear or missing in the policy, and just under half of individual respondents feeling that there was nothing unclear or missing in the policy.
37. In particular, we noted that further detail was requested to make it clear why examples of decisions from previous cycles were accepted or rejected. As outlined in the section on ‘amendments to the policy’, we will add this further detail. There was one suggestion that we could also add in what the registrant might have done in those circumstances to avoid rejection, but we do not feel it would be appropriate to add such detail as we consider each case on its own merits.
38. We note comments from two organisations that one of the examples of a decision that was rejected in a previous cycle appeared to be harsh. We consider that misunderstanding of CET requirements is not an exceptional circumstance and expect registrants to do everything that they can to understand and meet their CET requirements. As outlined in the section on ‘amendments to the policy’, we will amend two of the examples from previous cycles to more clearly explain the types of cases that are likely to be rejected.
39. There were some suggestions for additional factors to include or factors to expand on in the comments – these have been covered in the section on ‘amendments to the policy’.
40. Some respondents felt that there were areas missing from the policy (such as, poor internet, bereavement etc). This policy has moved away from giving a list of examples about what would constitute an exceptional circumstance (for the reasons outlined in the consultation document) and instead focuses on what factors the Registrar will take into account, and how they will use their discretion to retain registrants who have not met their CET requirements in circumstances where this would not risk public protection or undermine the public interest, giving examples of previous decisions.
41. It was suggested that the CET scheme should include credit for other qualifications. While not possible under the existing CET scheme, it will be under our new CPD scheme beginning in 2022. However, the policy will set out that the Registrar will take into account ‘any other steps taken to maintain their

skills, for example, having recently completed relevant further and/or higher education or non GOC-approved training’.

42. There was a comment that the policy is missing what the CET points requirements are for someone who has a baby or is working part-time etc. Our current CET requirements are set out in our [CET guide for registrants 2019-21](#) and are the same regardless of family situation and whether you are working part time or full time.
43. One respondent felt that a ‘grace period’ was missing from the policy. The legislation on CET does not allow for a grace period in completing CET requirements and it would not be possible to make this addition to the policy.
44. It was noted by some that the policy still references CET, despite the move to CPD in 2022. This is intentional as this policy needs to cover applications relating to the 2019-21 CET cycle. We will update the policy again in the new CPD cycle.
45. There was a comment from one organisation about the tone of the policy, which they felt was forbidding rather than welcoming. The tone of a policy can be difficult when it involves legal requirements. We do not wish to give the impression that registrants should not ‘bother’ to apply under the policy but equally we do not wish to give the impression that registrants should not do everything they can to meet their requirements. Our focus must be public protection, balanced with fairness to the registrant.
46. There was a request to explicitly refer to ‘any other mitigating factors’ in the list of factors considered by the Registrar. We feel that this was already covered in the original policy at paragraph 4.2 but will be further emphasised in the updated policy with a new paragraph 4.2 where it will refer to ‘the registrant’s reasons for not meeting the CET requirements’ and ‘whether they took all reasonable steps to meet CET requirements but were unable to complete these due to exceptional circumstances beyond their control’.
47. There were several suggestions to specifically include mention of the COVID-19 pandemic in the policy, which we will do as outlined in the ‘amendments to the policy’ section.

Discrimination against stakeholders with specific characteristics

48. Overall, most organisations felt that there were aspects of the policy that could discriminate against stakeholders with specific characteristics. Most individuals responding did not agree.
49. One comment in particular referred to the lack of reference to non-child related caring responsibilities or compassionate absences as not being inclusive, and felt that the policy was not sufficiently inclusive in tone. We have already

addressed these comments in paragraphs 33 and 45 above. It was also suggested that the policy could be discriminatory for not making exceptional arrangements for pregnant women and new mothers. This policy no longer gives a list of exceptional circumstances so as to shift the focus onto public protection. However, if pregnant women experience illness during their pregnancy or if new mothers experience particular difficulties that mean they cannot meet their CET requirements, it would be open to them to apply under the policy and we would take their circumstances into consideration.

50. It was also felt that the policy might be discriminating against registrants living on the poverty line who cannot afford fast internet. The CET scheme does not require registrants only to undertake online CET. If the situation outlined were a reason as to why a registrant could not complete their CET this cycle, we would take this into consideration as part of their application.
51. It was also noted that the policy may discriminate against people of older age groups who do not like online learning. These comments are more about the CET scheme than the policy itself. Again, we would outline that the CET scheme does not require registrants only to undertake online CET (although we note that there is likely to have been less face to face CET this cycle). Conversely, many registrants will find it easier to engage with online learning and will save money and travel time by doing so.
52. It was suggested that not mentioning anything about miscarriages or loss of baby during pregnancy could discriminate, unless we would consider this under serious illness – we confirm that this policy no longer lists examples of exceptional circumstances in the way that the old policy did, and that we would take into account circumstances such as miscarriages or loss of baby in the same way that we would any other circumstance that the registrant informed us about. We also note that some of those registrants would be entitled to maternity leave anyway, depending on the stage of pregnancy that the miscarriage occurred.
53. It was also suggested that mentioning COVID-19 in the policy could help to protect against indirect discrimination. As outlined in the section on ‘amendments to the policy’ we will add reference to COVID-19.

Positive impact on stakeholders with specific characteristics

54. Overall, there were mixed responses as to whether the policy had any positive impacts on stakeholders with specific characteristics.
55. Respondents gave some specific examples. None of the comments required any follow-up responses.

Any other impacts

56. Areas raised under this question had generally been dealt with under other sections. There was a comment that welcomed the removal of the requirement that registrants must have been unable to practise to be considered under the policy and an organisation felt that the policy had increased transparency which would have a positive impact overall.

Other queries/comments

57. There were some queries or comments throughout the free-text responses that do not fall into the categories above, which we address here.
58. There was one comment that we needed to make it easier for people on maternity leave to access CET. This is not within our remit but we will raise this with the professional/representative bodies to see if this area can be explored. We anticipate that the increased provision of remote CET since the start of the pandemic should help to make CET more accessible.
59. One respondent felt that registrants should be able to easily come on and off specialty registers if not practising. It is open to registrants practising a specialty not to renew each year if they are not practising, although we accept that there are CET requirements for restoring to the register which may make it less appealing for a registrant not to renew. We will be looking at our restoration policy later in the year.
60. Another respondent asked if remote peer review will continue beyond the pandemic. As part of opening up the CPD system for the new cycle in 2022, we can confirm that we will be allowing remote provision of peer review.
61. We were also asked for an evidence base for peer review as part of the CET requirements. We introduced peer review in the 2013-15 CET cycle following the 2010 Europe Economics report entitled [Risks in the Optical Profession](#).