

Guidance on: LOCs and non-GOS practices**Author:** LOCSU**Audience:** LOCs**Date:** May 2022**Background**

Some LOCs are receiving enquiries regarding optical practices who have withdrawn or are considering withdrawing from the NHS General Ophthalmic Services (GOS) contract. Enquiries centre on two areas asking whether private-only practices can:

- i) Remain a member of, or be represented by, the LOC in their areas.
- ii) Make financial contributions to the LOC outside of the GOS levy mechanism.

Purpose of guidance

To outline to LOC officers and members what is and is not permissible according to legislation. LOC officers and members are responsible for running their committees in accordance with the law.

LOC definition

LOCs, as with other Local Representative Committees (LRCs), are statutorily derived bodies (established by Acts of Parliament). LOCs were established by the NHS (Amendment) Act 1949. They are further referenced and recognised by NHS England under the NHS 2006 section 125 (1), as per the LOC Model Constitution, approved by NHS England and consultation with LOCs.

NHS England recognises a committee as:

- i) representative of a person under a general ophthalmic services contract providing primary ophthalmic services in the areas for which the committee is formed; also representing*
- ii) each optometrist not acting as a contractor who is performing primary ophthalmic services in the area for which the committee is formed under a general ophthalmic services contact.*

LOCs also feature in the recent Health and Care Act 2022.

Legislative requirements of LOCs

- To represent and support optical contractors and performers that provide NHS commissioned and taxpayer funded GOS. Contractors hold a GOS contract with NHS England at national level. Performers, as defined by NHS and Government, are optometrists registered on the NHS Performers' List for the purpose of delivering GOS to NHS-funded patients. All performers are optometrists but not all optometrists are performers. Optometrists working purely in secondary care or private practice are not required or eligible to be registered on the Performers List for England. Dispensing opticians (DOs) may serve as contractors but are not performers (see FAQs below).
- LOCs are to be funded through mandatory levies on GOS activity from practices holding GOS contracts with NHS England.¹

Outside of legislation

- Representing optical contractors outside of NHS primary care. LOCs do not have any statutory remit or responsibility to represent private-only providers.
- Representing optometrists who are not on the Performer List for England. LOCs do not have a statutory remit or responsibility to represent an optometrist working solely in private practice or the hospital eye service.
- Seeking or receiving means of funding other than the statutory levy on local GOS activity.

¹ [National Health Service Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2006/41/section/125)

FAQs

1) Why does this matter to my LOC?

LOC legislation applies to all LOCs. Even if your LOC is not receiving private-only enquiries it is still important to have the information in this guidance for LOCs to hand.

Also, because LOCs derive their existence and remit as representatives of NHS contractors and performers, hypothetically if all practices became private-only, LOCs would have their existence threatened.

2) What's the issue with non-paying private-only practices still engaging with or being represented by the LOC?

Practices that do fund LOCs through the GOS levy might question why they are funding LOC work on behalf of non-levy payers. LOC members and officers may also question this.

Members and officers are responsible for ensuring their committees function in accordance with their statutory footing.

3) Is there really such a big difference between NHS and private practice? It's the same profession after all.

In LOC terms as relates to legislation and NHS, yes. LOCs are intrinsically tied to NHS primary care. LOCs therefore fulfil a formal role beyond that of local professional networks.

4) The Model Constitution says we can have up to three non-contractor and non-performer members on the committee from within or without the LOC area.

It is correct that the LOC Model Constitution makes provision for up to three co-opted members per LOC. In theory, these could all be private-only contractors or practitioners.

These people can also seek election to officer posts.

However, LOCs should take into account that co-option was designed to encourage DO membership on LOCs rather than private-only membership. Therefore, LOCs should consider

whether their committee is better served by co-opting members working outside the NHS, or by DOs in GOS practices.

5) We have a long-standing and skilled committee member who has just gone private-only.

Do we have to remove them?

If they have previously been elected to the committee as a GOS contractor or performer then yes, because they no longer fulfil either of these roles. However, the committee can choose to co-opt the individual back onto the committee if it is judged that the individual will still add value to the LOC's statutory role in a private-only capacity.

6) Do LOC officers and members need to do anything about this?

Yes. It is important that all LOCs explain to local practices contemplating relinquishing GOS contracts that by doing so they lose the right to LOC representation.

7) Why is LOCSU telling us this?

LOCSU has received several requests for information from individual LOCs on this matter.

LOCSU was established to support LOCs. It is therefore LOCSU's duty to ensure that LOCs are informed about LOC fundamentals.

8) We have a hospital optom who attends our meetings. Should they be co-opted as a member?

The LOC may choose to do this. Alternatively, it may deem it more appropriate for a hospital optom (or other) to act as an observer to the committee. As per the Model Constitution, observers shall normally be given meeting papers and be invited to participate in discussions but will not be able to vote and may be asked to leave certain parts of the meeting at the committee's discretion in respect of the LOC's representation of primary eyecare contractors and performers.