



## **DRAFT**

# **EUROPEAN COMMISSION CONSULTATION REGARDING COMMUNITY ACTION ON HEALTH SERVICES**

## **Response by the Association of British Insurers**

### Introduction

The Association of British Insurers represents about 400 insurance companies accounting for some 95% of the business transacted by British insurance companies.

This response is written to represent their interests as health insurers, and not as providers of health care.

### 1 What is the current impact of cross-border health care on accessibility, quality and financial sustainability of healthcare systems, and how might this evolve?

No accurate data about the extent of cross-border healthcare, but we doubt that it represents even one per cent of the total healthcare provided to European citizens. In these circumstances, caution is necessary, to ensure that any measures taken to improve cross-border health care do not have a negative effect on the great bulk of health care provided within national borders.

Private medical insurers have managed to cope with the financial implications of policyholders' increased access to cross-border health care in the wake of the ECJ judgments and their interpretation by the Financial Ombudsman Service (FOS). In the future, cross-border healthcare is likely to increase slowly, and we see no reason why private health insurers should not be able to adjust.

### 2 What specific legal clarification and what practical information is required by whom to enable safe, high-quality and efficient cross-border healthcare?

No further legal clarification is required. The existing judgments of the ECJ are quite adequate to enable cross-border healthcare to operate safely. In the UK, the body which takes decisions on the financing of cross-border healthcare by private medical insurance is the Financial Ombudsman Service (FOS). The FOS has taken the view that, even if PMI policies specifically exclude

treatment overseas, the insurer should reimburse the policyholder at the lower of the level the treatment would have cost in the UK, or the actual cost overseas.

As far as practical information is concerned, we recommend that the EU take advantage of the opportunities offered by information technology. An increasing number of patients access databases such as NHS Direct before approaching the healthcare system. We recommend that the EU should establish a healthcare portal, linked to the health care databases in each national system, through which EU citizens could find out more about the possibilities of cross-border healthcare provision, if they so wish.

3 Which issues should be the responsibility of the authorities of which country? Are these different for the different kinds of cross-border healthcare?

Responsibility for healthcare should always lie with the authorities of the country in which a particular intervention has taken place. Any alternative will involve a cumbersome and expensive system, which would far outweigh the benefits of consistency.

4 Who should be responsible for insuring safety in the case of cross-border healthcare? If patients suffer harm, how should redress for patients be ensured?

As above, responsibility for safety redress in the case of harm should lie within the systems of the country in which healthcare takes place.

There may be a role for the European Commission, through the portal mentioned in the answer to question 2, in publishing a survey of the redress and compensation systems in member states.

5 What action is needed to ensure that treating patients from other Member States is compatible with the provision of a balanced medical and hospital services accessible to all?

This is a matter for providers of healthcare to determine.

6 Are there further issues to be addressed in the specific context of health services regarding free movement of health professionals or establishment of healthcare providers not already addressed by Community legislation?

These issues are already addressed in EU legislation.

7 Are there other issues where legal certainty should also be improved in the context of each specific health or social protection system? In particular, what improvements do stakeholders directly involved in receiving patients from other member States suggest in order to facilitate cross-border healthcare?

See answer to Question 2.

8 In what ways should European action help support the health systems of the Member States and the different actors within them? Are there areas not identified above?

No further action is required at Community level at present, but the Commission should keep the situation under review, consulting stakeholders and providing regular reports on developments in cross-border health care.

9 What tools would be appropriate to tackle the different issues related to health services at EU level? What issues should be addressed through Community legislation and what through non-legislative means?

Community legislation would not be the right tool to address healthcare, where national systems differ so greatly. Any attempt to harmonise would do more damage to national systems than is warranted by the benefits of a common system.

Any further work should build on the existing contribution of the High Level Group. The Open Method of Co-ordination is a preferable tool to Community legislation.

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