# General Osteopathic Council

## Response to the European Commission Consultation regarding Community Action on health services

Introduction

The General Osteopathic Council (GOsC) is the competent authority for osteopaths in the UK.

The GOsC has a statutory duty[1] to regulate the practice of osteopathy in order to:

- protect patients,
- develop the osteopathic profession to ensure the highest standards of training and care and,
- promote awareness of osteopathy as a regulated profession and a key contributor to the delivery of safe, modern healthcare.

Across Europe, these guarantees do not currently exist. Osteopathy is regulated in only four of the 30 countries of the European Economic Area. This means that there is currently no consensus on standards of osteopathic training and practice and insufficient competent authorities for the efficient sharing of information.

Whilst the GOsC recognises the importance of the free movement of professionals, the impact of some European Union (EU) proposals has highlighted the challenge of maintaining patient safety in the absence of consistent regulation.

For this reason, the GOsC is a member of the Alliance of UK Health Regulators on Europe (AURE) (www.aure.org.uk) which exists to respond to EU developments that have an impact on health and social care regulation and patient and public safety in the UK.

The GOsC is also a member of the Forum for Osteopathic Regulation in Europe (FORE) (www.forewards.eu) bringing together European osteopathic organisations to facilitate discussion on standards of osteopathic practice and training across Europe, with a view to protecting patients.

The GOsC welcomes the opportunity of this Commission initiative in so far as it protects patients and provides legal clarity to issues surrounding cross-border healthcare.

1. What is the current impact (local, regional, national) of cross-border healthcare on accessibility, quality and financial sustainability of healthcare systems, and how might this evolve?

   The GOsC welcomes cross-border healthcare where it promotes patient safety and does not undermine health and social regulation in the UK.

[1] *The Osteopaths Act*. UK Stationery Office, 1993

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As a result there exists a complex array of regulatory structures, or none at all. This means that osteopathic patients do not enjoy the same standards of healthcare protection across Europe.

With greater freedom of movement of professionals and patients, cross-border healthcare will no doubt increase. For this reason, clarity and consistency over the role and scope of competent authorities for osteopathy in the EEA and accession countries is needed to allow for information exchange and mutual understanding.

The implications for public and patient safety, and the maintenance of recognised standards of practice, should be considered alongside the principles of free movement in the development of EU policy and legislation.

2. What specific legal clarification and what practical information is required by whom (e.g. authorities, purchasers, providers, patients) to enable safe, high-quality and efficient cross-border healthcare?

A Europe-wide approach to information exchange between competent authorities is important to achieve increased efficiency, validity and security of data sharing. This information is necessary not just to enable the regulator to determine an osteopath's fitness to practise, but also for the patient to know what they can expect of an osteopath and what means of redress exist if required. As a member of AURE, the GOsC supports the establishment of a legal duty on regulatory bodies to inform and provide information to other regulators and the public.

Whilst the Recognition of Professional Qualifications Directive (RPQ)[2] states that competent authorities shall exchange information, the GOsC would also welcome the formalisation and EU wide delivery of the Edinburgh Agreement, arrived at by the 'Healthcare Professionals Crossing Borders' initiative in 2005.[3] We would also welcome the assistance of the European Commission to identify the relevant competent authorities and to encourage these organisations to make information available and accessible.

Any future EU healthcare services initiative should not undermine the obligation set out in the RPQ Directive that requires a professional to register with the competent authority in the host country, even if s/he is registered in his/her home State. This is essential if the public and patients are to be protected from the minority of practitioners whose practice may put them at risk.

[2] Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.
[3] Healthcare Professionals Crossing Agreement, UK Department of Health, November 2005.

3. Which issues (e.g. clinical oversight, financial responsibility) should be the responsibility of the authorities of which country? Are these different for the different kinds of cross-border healthcare described in 2.2 above?

   In the case of osteopathy, the authorities which *should* hold the responsibility for clinical oversight and / or financial responsibility do not necessarily yet exist.

   For the benefit of regulators and patients, and to assist the identification of the competent authorities, we would also urge the European Commission to provide some legal clarity over the meaning of 'regulation'. There are currently only four countries in the EEA which regulate osteopathy and even here there are clear differences in the methods of regulation and, subsequently, level of care and information provided to patients.

   Clinical oversight:

   - *Use of services abroad*: a patient seeking redress for clinical oversight should be able to pursue this with the relevant competent authority in the country where the incident occurred. If the profession is not regulated in that State, redress would depend on the mechanisms available for private action in national law.
   - *Permanent presence of a service provider:* Action should be the responsibility of the competent authority with which the practitioner is registered. If the profession is not regulated in that country, redress would depend on the mechanisms available in national law.
   - *Temporary presence of persons*: Action should be the responsibility of the competent authority in the host State. If the profession is regulated in the home State but not the host State, redress should be the responsibility of the home State. If the practitioner is registered with a host and home competent authority, action should be taken by the host State where the incident took place. It should also be possible for the home competent authority to pursue disciplinary action if necessary.

   Financial responsibility:

   - Given the increasing freedom of movement of professionals and patients, private health insurers and professional indemnity insurance companies must recognise the need to provide schemes that cover cross-border healthcare.

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

   As a regulator, this is an important issue for the General Osteopathic Council. Our primary function is to protect patients through the maintenance of a Statutory Register and the development of high standards of training and practice.

   We regard legal clarity over regulatory responsibility in each area of cross-border healthcare essential in order to avoid confusion between regulators, healthcare professionals and patients.

The most appropriate and safest way to regulate healthcare professionals delivering services in the UK and provide for patient redress is at national level. This means that UK-established professionals providing services elsewhere should be subject to the disciplinary mechanisms of the home competent authority. However, this does not preclude the host competent authority also taking action.

But for some patients, this level of protection is unavailable because of an absence of osteopathic regulation across Europe. UK patients travelling to some other Member States for osteopathy are receiving unregulated care. There are no competent authorities through which the patient can seek redress or with whom the GOsC can exchange information about the fitness to practise of osteopaths wishing to provide services elsewhere in Europe.

Whilst we do not agree with pan-European or semi-centralisation of the regulatory function for healthcare professionals, we welcome voluntary measures to help provide for a consistent level of patient safety across Europe. These include the:

- formalisation and EU-wide delivery of the Edinburgh Agreement arrived at by the 'Healthcare Professionals Crossing Borders' initiative in 2005.[4]
- common values and principles in EU Health Systems, adopted by the Council of the European Union, June 2006.[5]
- initiatives within the European Economic and Social Committee to explore the rights of patients.
- independent initiatives to develop common frameworks of training and practice, where regulation does not currently exist. One example is the Forum for Osteopathic Regulation in Europe (FORE)[6], initiated by the GOsC, which is developing a consensus on standards of osteopathic training and practice across Europe. To date a European Framework for Codes of Osteopathic Practice (EFCOP) has been developed and a European Framework for Standards of Proficiency (EFSOP) is being finalised. Mechanisms to improve information exchange, as set out in the Edinburgh Agreement[7], are also being explored.

5. What action in 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 (for example, by means of financial compensation for their treatment in 'receiving' countries)?

   As most of the osteopathic profession operates in the private sector, the GOsC does not have an opinion on this, except to argue for common principles/standards of healthcare, so that patients have at least an expectation of the level of care they will receive. The common principles agreed by the Council of the European Union earlier this year, and an opinion being developed by the European Economic and Social Committee on the rights of patients, could be a way forward to developing such a consensus.

[4] Healthcare Professionals Crossing Agreement, UK Department of Health, November 2005
[5] Common values and principles in EU Health Systems (9504/06), Council of the European Union, May 2006
[6] www.forewards.eu
[7] Healthcare Professionals Crossing Agreement, UK Department of Health, November 2005

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

   In the development of health services policy, the GOsC would urge the consideration of a risk-based approach. We consider it essential to determine the significance of the risks inherent within healthcare delivery and therefore how that patient may be best protected.

   The GOsC would also ask that the application of future health services policy provides equality between UK and non-UK healthcare practitioners. The RPQ Directive has created an anomaly. In practice, access to the GOsC Statutory Register is currently easier for non-UK qualified professionals from countries without a competent authority than it is for practitioners with a UK qualification, where statutory regulation does exist.

   Good communication, including language skills, is vital particularly for the patients of those professionals working as self-employed, private practitioners. As a member of AURE, the GOsC would also support the inclusion of communication, including language ability, into a legal framework.

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 – such as healthcare providers and social security institutions – suggest in order to facilitate cross-border healthcare?

   It is important that the role of competent authorities is clear. It is equally important that this role is consistent between Member States. This is in the interests of practitioners, regulators and patients.

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?

   The GOsC would welcome the recognition of the needs of patients across Europe, who are currently receiving differing care and different standards of care. The GOsC supports moves to agree common patient rights, particularly with regard to:

   - Human rights and human values in healthcare;
   - Informing patients and doctors;
   - Consent;
   - Confidentiality and privacy;
   - Care and treatment, including withdrawal with all the issues this raises;
   - Implementation

   The GOsC believes that patients should be at the centre of all regulatory processes. We support increasing public and patient input to the development of regulatory matters across Europe and welcome increasing dialogue with patient and public representative bodies.

The European Commission should also encourage and support the development of forums to facilitate European frameworks of training and practice, particularly where regulation does not exist at present, as in the initiative established by the Forum for Osteopathic Regulation in Europe (FORE).

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?

   The GOsC welcomes a formalisation of the Healthcare Professionals Crossing Borders project, particularly with regard to the exchange of information between competent authorities.

   We support continuing harmonisation and collaboration that encourages good practice, but does not undermine national healthcare regulation. European Frameworks of understanding, e.g. codes of practice and training standards, should be encouraged to develop minimum standards but which also allow the flexibility for national Governments to define their own methods of regulation to suit the particular health system and the needs of their patients.

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