

**EDUCATION COMMITTEE
16 JUNE 2011
CARE QUALITY COMMISSION**

<u>Classification</u>	Public
<u>Purpose</u>	To note
<u>Issues</u>	Clinical Governance, the Care Quality Commission, Healthcare Improvement Scotland, Healthcare Inspectorate Wales and the Regulation and Quality Improvement Authority and Osteopathy.
<u>Recommendations</u>	To note the requirements of the Care Quality Commission and the relationship to osteopathy. To note that the wider quality framework will be taken into account as we further develop our thinking about revalidation post pilot.
<u>Financial and resourcing implications</u>	None from this paper.
<u>Equality and Diversity implications</u>	None from this paper.
<u>Communications Implications</u>	None from this paper.
<u>Annexes</u>	Annex A – CQC – Essential Guide of Quality and Safety
<u>Author</u>	Fiona Browne

Background

1. Recently, one of the OEIs with a multi-disciplinary health faculty in England asked the GOsC whether the Care Quality Commission (CQC) legislation covered osteopathic educational clinics and osteopathy generally and asked us to advise on this issue. It is an offence in England to not be registered with the CQC if one offers undertakes 'regulated' healthcare activity.
2. We do not consider it to be the role of the GOsC to advise others on their legal obligations, but we do consider it appropriate to have our own understanding of the relationship between osteopaths and OEIs on one hand and another regulatory body on the other.
3. The legislation establishing the CQC and the associated quality framework is complex and applies to England only. Similar but different organisations oversee aspects of the quality frameworks in Wales, Scotland and Northern Ireland.
4. We therefore sought legal advice (from Fenella Morris of Counsel) to understand the broad position in relation to osteopaths and the practice of osteopathy to establish whether guidance should be explored for osteopaths in this area in England.
5. We discuss below the advice provided to the GOsC. This issue also illuminates the way in which the wider context could impact on osteopathy and in particular patients who access osteopathy and other forms of healthcare. This paper therefore moves on to consider the notions of clinical governance and quality improvement for information.

Discussion

Summary of legal advice

6. In summary, the legal advice received as to whether osteopaths need to be registered with the CQC, is that osteopathy will not be a regulated activity covered by the legislation.
7. This means that, according to the advice, osteopaths are not required to register with CQC and will not be required to pay the annual registration fee of c£1500 to demonstrate particular mandatory quality improvement requirements.

The wider context

8. The remainder of this paper outline some of the requirements of CQC registration applying to many other healthcare professionals both in the NHS and independent sector including: a medical practitioner, a dental practitioner, a dental hygienist, a dental therapist, a dental nurse, a dental technician, an orthodontic therapist, a

nurse, a midwife, a biomedical scientist, a clinical scientist, an operating department practitioner, a paramedic, or a radiographer.

9. It is important for us to be aware of the external quality environment applying to other healthcare professionals as this will help us to be aware of the patient experiences and expectations in other settings and will also help us to keep osteopaths informed about these standards. We know already from the draft Osteopathic Patients' Expectations of Care: the OPEn project report that patients held an expectation of better quality of care than in the NHS because they were paying for it
10. For osteopaths who wish to engage in the further development of NHS commissioned osteopathy in the future, it may be necessary for them to be able to demonstrate that they have incorporated clinical and quality governance in their practice and that they are committed to quality improvement in order to be able to engage.

The bigger picture: What is clinical governance?

11. Clinical governance is "...a system through which NHS organisations are accountable for continuously improving the quality of their services and safeguarding high standards of care by creating an environment in which excellence in clinical care will flourish." (See Clinical governance and the drive for quality improvement in the new NHS in England, Scally and Donaldson 1998 available at <http://www.bmj.com/content/317/7150/61.full>)
12. It is described as a system involving values, behaviours and culture as well as processes and structures and in this sense, it is very complex.
13. Part of the development of thinking about clinical governance has been to encourage the development of effective clinical governance systems within and across healthcare providers. 'Systems regulators' have been created to inspect these aspects of clinical governance and quality governance. These are the Care Quality Commission in England, Healthcare Improvement Scotland, the Regulatory and Quality Improvement Agency in Northern Ireland and Healthcare Inspectorate Wales.
14. Originally, these bodies focussed on the NHS just as the concept of clinical governance was focussed on the NHS. However, all the 'systems regulators' now extend their powers of inspection into areas of the independent sector as well as the NHS in slightly different ways.
15. As patient journeys move more freely between the NHS and the private sector, so it is important to be aware of the quality requirements in other areas of the health sector, and the way these are demonstrated to enable osteopaths and osteopathy to continue to access a wide variety of patients.

What is the Care Quality Commission (CQC)?

16. The Care Quality Commission is established by the Health and Social Care Act 2008 and is required to register health and social care professionals providing particular 'regulated activities'.
17. The CQC describes itself as the 'the independent regulator of health and adult social care services in England. Whether care services are provided by the NHS, local authorities, private companies or voluntary organisations, [CQC] make sure that people get better care... by:
- Driving improvement across health and adult social care.¹
 - Putting people first and championing their rights.
 - Acting swiftly to remedy bad practice.
 - Gathering and using knowledge and expertise, and working with others.¹

How does the Care Quality Commission carry out its regulatory duties?

18. The CQC has set essential standards expected of those registered. These standards are drawn from the following legislation:
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and the
 - The Care Quality Commission (Registration) Regulations 2009.
19. It publishes a 'quick' guide² to those standards. An extract from the Quick Guide is set out at Annex A demonstrating the requirements and mapping these against the legislative requirements.
20. The legislative requirements include requirements on healthcare providers to
- Regularly assess and monitor the quality of the services provided having regard to the views of patients (amongst other things) (Regulation 10 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010)
 - Put in place effective systems to prevent, detect and control spread of infection (Regulation 12 as above)
 - Suitable premises (Regulation 15 as above)
 - Suitable arrangements in place for obtaining and acting in accordance with consent to treatment (Regulation 18 as above)

¹ See CQC, Summary of our Strategy for 2010 – 15, 2010, available at and accessed on 31 May 2011 http://www.cqc.org.uk/publications.cfm?fde_id=

² See CQC, Quick Guide to the Essential Standards for Care and Quality, 2010 available at http://www.cqc.org.uk/publications.cfm?fde_id=14214 and accessed on 31 May 2011.

- Bringing complaints procedure to the attention of the patient (Regulation 19 as above)
- Maintaining accurate records (Regulation 20 as above)
- Co-operating with other providers where reasonably practicable (Regulation 24 as above)
- The individual has suitable training to carry out the activity (Regulation 7 as above)
- Fees - the registered person must provide a statement to the patient specifying the terms and conditions and the amount and method of payment of fees. (Regulation 10 of the Regulation of the Care Quality Commission (Registration) Regulations 2009)

Why is the Care Quality Commission relevant to osteopathy?

21. In simple terms, we believe that the complex legislation does not include osteopaths as 'health professionals' and therefore osteopathy is not a regulated activity. (Similar provisions appear to apply both to chiropractors and physiotherapists). This means that osteopaths do not need to register with the Care Quality Commission.
22. However, if the osteopathy is provided by a healthcare professional from the list (a medical practitioner, dental practitioner, dental hygienist, dental therapist, dental nurse, orthodontic technician, nurse, biomedical scientist, clinical scientist, midwife, operating department practitioner, paramedic or radiographer,) or provided as part of a multi-disciplinary team from the list (affecting some osteopaths who work in multi-disciplinary teams) then perhaps this could be considered regulated activity and they should register.³
23. The CQC undertakes an important 'systems' related role in terms of the provision of healthcare in England. It exercises this function in relation to the health system that patients function within.
24. It will be important for osteopaths to be aware of the information requirements and provisions in place for other healthcare professionals as these in turn may further influence patients' expectations of osteopathic healthcare – particularly if a patient is receiving care from both the osteopath and another healthcare professional.

Next steps

25. We will bring the content of guidance on the CQC website and our understanding of the CQC legislation to the attention of the BOA – particularly with regards to those osteopaths who may be working in a multi-disciplinary setting.

³ See CQC, Scope of Registration, 2010, p24, available at [http://www.cqc.org.uk/db/documents/8798-CQC-The_Scope_of_registration_\(revised\).pdf](http://www.cqc.org.uk/db/documents/8798-CQC-The_Scope_of_registration_(revised).pdf) and accessed on 31 May 2011.

26. We will also take into account the wider quality framework as we develop our thinking around revalidation post piloting.

Recommendation:

To note the requirements of the Care Quality Commission and the relationship to osteopathy.

To note that the wider quality framework will be taken into account as we further develop our thinking about revalidation post pilot.