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& ASSOCIATES

## Final Report on the Web Based Consultation Exercise Relating to Supplementary Guidance on Obtaining Consent.

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## 1 Introduction

The General Osteopathic Council (GOsC) completed a consultation exercise, via their website, on draft supplementary guidance for Osteopaths in relation to the law regarding consent. The deadline for responses to the consultation was 16<sup>th</sup> January 2013.

The consultation document itself consisted of 7 questions with an opportunity to provide any additional views. In addition respondents were asked to provide some personal data, although this we understand was completely optional.

## 2 Themes from the Findings

The consultation has provided some useful findings although they are extremely varied.

The number of responses is low and is particularly low when considering the size of the cohort of osteopaths and the number of responses from them.

We understand that all osteopaths on the register were e-mailed to inform them of the consultation, with a link to the consultation document included within that e-mail, and it is therefore somewhat surprising that a higher response rate was not achieved. It could be assumed that perhaps the osteopaths not responding were satisfied with the document, we however would stress caution in making this assumption. We are aware that considerably more looked at the document (219) than gave a response (60), but even that was low, and there is no way of knowing how many of those (who looked) are osteopaths.

It does appear that of those responding the majority felt the document was useful and the language was easy to understand, this needs to be tempered with the fact that the majority also felt there were aspects which required further explanation/clarification. There were also substantial numbers indicating a neutral response.

Somewhat disappointingly the most critical of responses such as:

*'Inadequate'*

and

*'Patronising. Impractical. Confusing.'*

were not as valuable as they might have been if the respondents concerned had then gone on to give examples, and to suggest amendments which would have made the document more acceptable to them.

These respondents may suggest that the nature of the consultation did not afford opportunity to give this additional type of feedback; we suggest this is not a strong argument as there were a number of responses which gave considerable narrative.

In section 3 below we provide an overview of the findings, and we feel we should highlight here, as suggested in the first sentence of this section, that the feedback received is so varied it has been extremely challenging to identify any real level of consistency in the comments.

## 3 Findings

### 3.1 General comments

There were a total of 60 responses of which we know that:

- 48 were from osteopaths
- 4 were from patients
- 1 was from an osteopathy professional association/union
- 1 was from another regulatory body within the health care sector
- 1 was from another health professional
- 1 was from a pre-registration osteopathy education provider
- 2 were from members of the GOSc's Fitness to Practise Committee
- 1 was from the Department for Health.

There are currently 4,692 osteopaths registered, and therefore we can calculate that only 1.02% have responded to this consultation. It should be highlighted that from a statistical perspective this is extremely low.

### 3.2 The Key Question

Arguably the key question within the consultation document was very specifically about The Obtaining Consent Guidance (Question 2), asking whether respondents agreed or disagreed with five statements and indicating on a scale how strongly they agreed or disagreed with each. It was this question that received the greatest response of 60.

We provide an overview of the responses below:

Statement	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Totals
The Obtaining Consent guidance is useful in support of Standard A4 of the Osteopathic Practice Standards	17 (28.33%)	24 (40.00%)	15 (25.00%)	1 (1.67%)	3 (5.00%)	<b>60</b> <b>(100%)</b>
The language used in the obtaining the consent form guidance is easy to understand	13 (21.67%)	23 (38.33%)	19 (31.67%)	2 (3.33%)	3 (5.00%)	<b>60</b> <b>(100%)</b>
There are some areas of the Obtaining Consent guidance which are not clear or are difficult to understand	5 (8.33%)	13 (21.67%)	17 (28.33%)	21 (35.00%)	4 (6.67%)	<b>60</b> <b>(100%)</b>
There are aspects of the Obtaining Consent Guidance that require further explanation/clarification	10 (16.67%)	11 (18.33%)	18 (30.00%)	16 (26.67%)	5 (8.33%)	<b>60</b> <b>(100%)</b>
The format of the Guidance is clear and accessible	14 (23.33%)	19 (31.67%)	21 (35.00%)	3 (5.00%)	3 (5.00%)	<b>60</b> <b>(100%)</b>
<b>Totals</b>	<b>59</b>	<b>90</b>	<b>90</b>	<b>43</b>	<b>18</b>	<b>300</b>

The vast majority of respondents felt that the Guidance was useful, however it is we suggest critical to note that, 21 (35% of total) respondents felt that the Guidance did require further explanation/clarification.

### 3.3 Other Findings

The other five questions gave respondents the opportunity to give specific comment and feedback. We have provided a collation of all comments separately, and simply provide some examples of comments received below.

**Question 3** – Please provide any comments on the usefulness of The Obtaining Consent Guidance and the language used –

There were 19 responses to this question and although we accept that it is a somewhat subjective judgment we are of the opinion that 7 (36%) of them provided positive comment.

Probably the most positive of all responses was:

*‘The information received is very thorough and an excellent example of a set of rules and conditions to support practitioners in a sensitive profession’*

And the two most negative:

*‘NOT GOOD ENOUGH’  
‘Patronising. Impractical. Confusing.’*

Of the 19 responses to this question, there were 4 (21%) which made specific reference to language all of which were critical of the language used, 2 specifically making reference to the language being ‘legalese’.

An example being:

*‘You need to translate legalese into ordinary language. I have a law degree and knowledge of the subject but I struggle to work out what the osteopath is supposed to do.’*

A number of respondents provided comment, which although useful and informative did not directly answer the question being posed, for example:

*‘Regarding section 2: Age 16/17 year olds. For England and Wales on page 12 and 21, it mentions that you can examine and treat a young person if you believe that young person does not have capacity to consent. If you determine in their best interests it is to treat them, but someone with parental responsibility does not consent/is unsure. What should you do? How should this be noted in the patient’s records?’*

As an observation of this question it is actually two questions:

1. i. Please provide any comments on the usefulness of The Obtaining Consent Guidance
2. ii. Please provide any comments on the language used.

If this had been presented as two separate requests it may have been clearer to the respondents and may have elicited greater and perhaps more specific feedback.

**Question 4** – Are there any areas of the document that are not clear or are difficult to understand?

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There were 17 responses to this question. The feedback was in the main quite specific, although again some responses although valuable did not appear to directly address the question for example:

*‘THE WHOLE DOCUMENT IS NOT CONCLUSIVE.’*

The specific nature of the responses provided to this question, do not allow us to identify any consistent theme.

The following two examples demonstrate the degree of variation in response:

*'Tables giving separate details for different countries are a little difficult to follow.'*

*'It would be useful to have further information on how to refer a situation to the courts for those of us who never have and may find ourselves in such a position.'*

**Question 5** – Are there any aspects of The Obtaining Consent Guidance that require further explanation/clarification? –

There were 16 responses to this question and the vast majority provide detailed and specific comment for example:

*'According to your draft document it would seem that a father not married to the mother of his child cannot give consent for treatment of his child (section 3.3 Child without capacity). However I think that this is incorrect. If the father is on the child's birth certificate as the father then he can give consent.'*

Unfortunately again it is slightly challenging to identify a consensus opinion. However of the 16 responses, 5 (31%) expressed some concern in relation to the guidance in regard to children, but there was no real consistency in these comments. We have given an example of one of these responses above and a further two are:

*'Section 3: Treating children. Page 17/21. What happens if the grandparents or other family member brings a child along to an appointment both with and without the mother/married father's consent? Do you call the mother to gain consent to take a case history, examine and then treat for each element?'*

*'The issues about parental consent are complex and easy to get wrong in practice, especially in respect of fathers' consent. A few strap-lines or a bit of highlighting of the bits that are not intuitive would be excellent messages for practice.'*

**Question 6** – Do you have any comments on the format of the document? –

There were 15 responses to this question and on this occasion, we are of the opinion, that all bar one response directly addressed the question.

It is interesting to note that there is considerable variation of opinion from:

*'Quick and easy to read, well laid out'*

to

*'INADEQUATE'*.

Of the 15 responses 4 (27%) were very positive about the format, for example:

*Quick and easy to read, well laid out.'*

2 (13%) were however very critical and the remaining 9 (60%) provided constructive comment suggesting some changes.

There was little consistency within these suggestions, with the exception that 2 of the 9 suggested making some change to how the guidance was presented in relation to different nations:

*'Rather than have a tabular format for the summary of the law, with England & Wales, Ireland and Scotland in 3 separate columns that are long and narrow, I suggest you have 3 different subsections of the main document and spread the text out – it would make it more readable.'*

*'...While it may be helpful to divide the guidance by country as you have done, there is a danger that this may make the law appear even more complex than it is and may be confusing - particularly for Osteopaths who work in more than one country – although this may be not be a particular issue in practice. Many of the principles underpinning the law are the same across the UK, even where the terminology used is different, particularly in relation to adults who lack capacity. It may be helpful to first explain the common principles relating to capacity and consent and then to flag up the particular differences or additional requirements in different countries, for example the need for a Certificate of Incapacity in Scotland before providing treatment...'*

**Question 7** – Do you have any general comments on The Obtaining Consent guidance? –

There were 18 responses to this question. These responses were a mixture of constructive and purely observational. It is not possible however to identify any consistent comment.

## 4 Personal Data

GOsC included within the consultation document six questions to gather personal data about respondents. These questions simply required a box to be ticked and as previously stated were entirely optional. It was only individual respondents (i.e. not those responding on behalf of an organisation) who were asked to provide these details.

The purpose in including these questions would be to attempt to identify how inclusive the responses had been. This is always useful, however it must be accepted that GOsC were unable to ensure inclusivity in any way as this was a web-based consultation and respondents were self-selecting.

We provide an overview of the responses below:

Age Grouping	Number of Respondents	Percentage of Total Respondents
21 – 30	2	3.85%
31 – 40	10	19.23%
41 – 50	17	32.69%
51 – 60	16	30.77%
61 – 70	4	7.69%
71 - 80	1	1.92%
Do not wish to state	2	3.85%
<b>Totals</b>	<b>52</b>	<b>100%</b>

<b>Gender</b>	<b>Number of Respondents</b>	<b>Percentage of Total Respondents</b>
Do not wish to state	1	1.92%
Female	20	38.46%
Male	31	59.62%
Transgender	0	0%
Other	0	0%
<b>Totals</b>	<b>52</b>	<b>100%</b>

<b>Ethnic Origin (Category 1)</b>	<b>Number of Respondents</b>	<b>Percentage of Total Respondents</b>
Asian	1	1.92%
Black	1	1.92%
Do not want to state	6	11.54%
Mixed – white and black Caribbean	1	1.92%
Other	1	1.92%
White	42	80.77%
<b>Totals</b>	<b>52</b>	<b>100%</b>

<b>Ethnic Origin (Category 2)</b>	<b>Number of Respondents</b>	<b>Percentage of Total Respondents</b>
African	1	2%
British	3	6%
Do not want to state	5	10%
English	31	62%
Indian	1	2%
Irish	1	2%
Other Background	4	8%
Other Mixed	1	2%
Other White	1	2%
Other White background	1	2%
Scottish	1	2%
<b>Totals</b>	<b>50</b>	<b>100%</b>



<b>Sexual Orientation</b>	<b>Number of Respondents</b>	<b>Percentage of Total Respondents</b>
Do not wish to state	13	25.00%
Gay/lesbian	1	1.92%
Heterosexual	38	73.08%
<b>Totals</b>	<b>52</b>	<b>100%</b>

<b>Disability</b>	<b>Number of Respondents</b>	<b>Percentage of Total Respondents</b>
Do not wish to state	8	16%
No	39	78%
Yes	3	6%
<b>Totals</b>	<b>50</b>	<b>100%</b>

<b>Religion/Belief</b>	<b>Number of Respondents</b>	<b>Percentage of Total Respondents</b>
Buddhism	2	3.92%
C of E	1	1.96%
Christian	17	33.33%
Do not wish to state	10	19.61%
Druidry	1	1.96%
Holism	1	1.96%
Jedi	1	1.96%
Muslim	1	1.96%
No religion	12	23.53%
Other	3	5.88%
Quaker	2	3.92%
<b>Totals</b>	<b>51</b>	<b>100%</b>