



General
Osteopathic
Council

GOsC Response to EC Green Paper: Modernising the Professional Qualifications Directive

About the General Osteopathic Council

The General Osteopathic Council (GOsC) is the Competent Authority for osteopathy in the UK. We have a statutory duty under the Osteopaths Act 1993¹ to regulate the practice of osteopathy in the UK. Osteopaths must be registered with the GOsC in order to practise in the UK.

We work with the public and the profession to promote patient safety by:

- Registering qualified professionals;
- Setting, maintaining and developing standards of osteopathic practice and conduct;
- Assuring the quality of osteopathic education;
- Ensuring continuing professional development;
- Helping patients with concerns or complaints about an osteopath.

The challenge the GOsC has always faced with implementing the Professional Qualifications Directive is the fact osteopathy is classified as a 'risk profession' in terms of the Directive because of the implications for public health and safety, it is not widely regulated across Europe² and care is predominately provided to patients in unsupervised, private practice.

We support the principle of free movement, and would welcome a revised directive which enhances patient safety and respects the rights of osteopaths moving within Europe.

New approaches to mobility

Question 1: Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?

Lack of regulation of osteopaths, means a lack of Competent Authorities with which the GOsC can exchange information about osteopaths moving within Europe. Of the few authorities that do exist, not every organisation deals with all aspects of registration and fitness to practise which are covered by the GOsC. This is complicated by the situation in France where currently there is no single Competent Authority for osteopathy, instead recognition is dealt with by the regional 'Directions Régionale des Affaires Sanitaires et Sociales' which makes effective information exchange more challenging.

¹ <http://www.legislation.gov.uk/ukpga/1993/21/contents>

² Within the European Economic Area, osteopathy is regulated in only six countries: Finland, France, Iceland, Malta, Switzerland and the UK.

Question 2: Do you agree that a professional card could have the following effects, depending on the card holder's objectives?

a) The card holder moves on a temporary basis (temporary mobility): -

Option 1: the card would make any declaration which Member States can currently require under Article 7 of the Directive redundant.

Option 2: the declaration regime is maintained but the card could be presented in place of any accompanying documents.

b) The card holder seeks automatic recognition of his qualifications: presentation of the card would accelerate the recognition procedure (receiving Member State should take a decision within two weeks instead of three months).

c) The card holder seeks recognition of his qualifications which are not subject to automatic recognition (the general system): presentation of the card would accelerate the recognition procedure (receiving Member State would have to take a decision within one month instead of four months).

This proposal might work for some professions, but we are not convinced that a card would improve professional mobility of health professionals and it cannot be a substitute for the necessary checks that we undertake on osteopaths applying to join the GOsC Register from elsewhere in Europe.

The possession of a card would not speed up the recognition procedure as we are permitted to apply compensation measures if considered appropriate. A professional card alone could mislead individuals/authorities into thinking an individual is fit to practise when they may not be. For the card to work, the information needs to be current and the Competent Authority must have robust systems in place to register and regulate the profession. With lack of regulation of osteopathy, however, there are too few Competent Authorities to update and manage the card.

We would endorse the opinion of the Rapporteur of the European Parliament's Committee on Internal Market and Consumer Protection who in her working document on the Green Paper, calls for a need for a thorough, evidence based impact assessment of what the added value of a professional card could be³.

If the Commission is calling to accelerate the recognition procedure, it would make more sense to invest and refine the existing Internal Market Information (IMI) system. To avoid a potentially costly and bureaucratic burden from professional cards, we would favour the existing IMI system as the principal tool for all administrative steps involved in the recognition of professional qualifications. Its use should be made mandatory for Competent Authorities (all bodies responsible for recognition, registration and fitness to practise matters) to use, with appropriate response times.

³ Working Document on the Implementation of the Professional Qualifications Directive 2005/36/EC. Committee on the Internal Market and Consumer Protection. Rapporteur: Emma McClarkin. 29.6.11.

Partial access

Question 3: Do you agree that there would be important advantages to inserting the principle of partial access and specific criteria for its application into the Directive? (Please provide specific reasons for any derogation from the principle.)

We would not support 'partial access' to a health profession because of the implications for public health and safety particularly in a profession like osteopathy, where most professionals practice alone and unsupervised.

Reshaping common platforms

Question 4: Do you support lowering the current threshold of two-thirds of the Member States to one-third (i.e. nine out of twenty seven Member States) as a condition for the creation of a common platform? Do you agree on the need for an Internal Market test (based on the proportionality principle) to ensure a common platform does not constitute a barrier for service providers from non-participating Member States? (Please give specific arguments for or against this approach.)

We are not convinced that common platforms can be developed and effectively implemented in the absence of regulation in many Member States, and a current discrepancy in standards of education, training and practice. This proposal to reshape common platforms suggests that a common platform could be created without the approval of 18 Member States.

In the absence of regulation and consistent standards of osteopathy in Europe, the GOsC is working with our European colleagues to develop a European Standard with the European Committee for Standardisation (www.cen.eu). This will include a set of minimum standards of competency at an EU level. Although a European Standard on Services for Osteopathy will not override national legislation, it will provide a consistent benchmark in those countries currently without any regulatory mechanisms. This project will begin in early 2012 and should be completed in 2015.

Professional qualifications in regulated professions

Question 5: Do you know any regulated professions where EU citizens might effectively face such situations? Please explain the profession, the qualifications and for which reasons these situations would not be justifiable.

The GOsC has defined the standards of safety and competency for osteopaths in the UK⁴, which are in place to protect patients. We have had experience of individuals applying to join the GOsC statutory Register who have completed training that is substantially different from the UK qualification/s. This meant that the only way onto the Register was for the individual/s to undergo the relevant UK training. As a regulator of a healthcare profession, we believe these qualification requirements are both justifiable and proportionate.

⁴ *Code of Practice*. General Osteopathic Council, May 2005; *Standard 2000 – Standard of Proficiency*. General Osteopathic Council, March 2009.

Access to information and e-government

Question 6: Would you support an obligation for Member States to ensure that information on the competent authorities and the required documents for the recognition of professional qualifications is available through a central on line access point in each Member State? Would you support an obligation to enable online completion of recognition procedures for all professionals? (Please give specific arguments for or against this approach).

Improving access to information is always welcome and we can see the rationale for a central online access point, however for healthcare professions the national contact points should be a signpost only to the relevant authorities. Only the Competent Authority should deal with required documents for the recognition of professional qualifications.

We support the online completion of recognition procedures, but not by national contact points; these need to be processed by the relevant Competent Authority.

The GOsC has an online searchable register of registration and disciplinary information available to the public on our website: <http://www.osteopathy.org.uk/information/finding-an-osteopath>. It would be helpful if all Competent Authorities provided this level of information on their registrants.

Temporary mobility

Question 7: Do you agree that the requirement of two years' professional experience in the case of a professional coming from a non-regulating Member State should be lifted in case of consumers crossing borders and not choosing a local professional in the host Member State? Should the host Member State still be entitled to require a prior declaration in this case? (Please give specific arguments for or against this approach.)

We would not support the removal of the two years' requirement of professional experience for healthcare professionals from non-regulating Member States. It is vital that the host Member State should continue to be entitled to require a prior declaration in advance of any provision of health services for the sake of public protection and safety, and to be able to effectively police the safety and competency of individuals accessing the osteopathic profession.

Regulated education and training

Question 8: Do you agree that the notion of "regulated education and training" could encompass all training recognised by a Member State which is relevant to a profession and not only the training which is explicitly geared towards a specific profession? (Please give specific arguments for or against this approach.)

For some professions yes, but in healthcare this would not be appropriate as the Competent Authority needs to ensure the practitioner has undertaken the appropriate education and training specific to their profession, in order to protect patients.

Opening up the general system

Levels of qualification

Question 9: Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach).

We would support deletion of the classification outlined in Article 11 as long as qualifications are not treated differently for purposes of mobility. Currently we consider all levels of osteopathic qualification when an individual is applying to join the GOsC Register.

Compensation measures

Question 10: If Article 11 of the Directive is deleted, should the four steps outlined above be implemented in a modernised Directive? If you do not support the implementation of all four steps, would any of them be acceptable to you? (Please give specific arguments for or against all or each of the steps.)

- 1) We recognise the rationale for deleting Article 14(1).
- 2) We support the deletion of Article 13(2), because as a regulator of a profession with an impact on public health and safety, we would assess an applicant's existing qualifications, regardless of their professional experience.
- 3) We would always provide feedback to an applicant on the reasons for applying a compensation measure in the event of differences in training.
- 4) We would not support the development of mandatory Europe-wide codes of conduct on aptitude tests or adaptation periods. This would restrict the ability of Competent Authorities to develop their own processes developed for particular circumstances. For a relatively small regulator of a profession not widely regulated in the EEA, such a binding EU-wide Code of Conduct may not be practicable.

Partially qualified professionals

Question 11: Would you support extending the benefits of the Directive to graduates from academic training who wish to complete a period of remunerated supervised practical experience in the profession abroad? (Please give specific arguments for or against this approach.)

We recognise the value of facilitating the mobility of graduates which would provide an opportunity to share teaching and research expertise, and provide exposure to different national healthcare systems before qualification. Within the osteopathic profession, however, there is no provision to undertake a traineeship as once an individual has graduated we classify them as being suitably qualified to work in independent practice.

IMI

Question 12: Which of the two options for the introduction of an alert mechanism for health professionals within the IMI system do you prefer?

Option 1: Extending the alert mechanism as foreseen under the Services Directive to all professionals, including health professionals? The initiating Member State would decide to which other Member States the alert should be addressed.)

Option 2: Introducing the wider and more rigorous alert obligation for Member States to immediately alert all other Member States if a health professional is no longer allowed to practise due to a disciplinary sanction? The initiating Member State would be obliged to address each alert to all other Member States.)

We strongly support Option 2. An alert system should be triggered whenever a Member State Competent Authority of a health profession suspends or removes an individual from the Register. The Commission's recent review of data protection law must not prevent the exchange of this important information to protect patients and the public.

An enhanced IMI system, underpinned by a legal duty on regulators to share information with relevant authorities in all Member States, would be a more proportionate approach to facilitating professional mobility.

We are working to develop further cooperation and communication mechanisms of information exchange between osteopathic Competent Authorities across Europe. This will build on existing work on information exchange developed by the EU-wide network Healthcare Professionals Crossing Borders (www.hpcb.eu).

We look forward to the remit of the Internal Market Information system being extended to include the osteopathic profession.

Language requirements

Question 13: Which of the two options outlines above do you prefer?

Option 1: Clarifying the existing rules in the Code of Conduct;

Option 2: Amending the Directive itself with regard to health professionals having direct contact with patients and benefiting from automatic recognition.

We support an amendment of the Directive on language requirements as proposed in Option 2, but emphasise that all health professionals should be required to demonstrate their knowledge of the language of the country in which they are practising, regardless of whether they benefit from automatic recognition or are from a general system profession. **All** health professionals in this instance should be dealt with consistently.

It is essential for public safety that Competent Authorities are confident that the health professional can communicate effectively with patients but also other healthcare professionals, including the emergency services. The proposed solution that this role be carried out by employers is not appropriate for all professions. Some professions, such as osteopathy, are predominantly made up of individuals who practice alone and are self-employed. These individuals do not have employers to ensure that they meet the requirements for language and communication which are especially important for healthcare professionals to assure patient safety.

Modernising automatic recognition

As a regulator of a general systems profession, we have not responded to questions 14 – 23 on automatic recognition.

Third country qualifications

Question 24:

Do you consider it necessary to make adjustments to the treatment of EU citizens holding third country qualifications under the Directive, for example by reducing the three years rule in Article 3 (3)? Would you welcome such adjustment also for third country nationals, including those falling under the European Neighbourhood Policy, who benefit from an equal treatment clause under relevant European legislation? (Please give specific arguments for or against this approach.)

As a regulator of a profession impacting on public health and safety, we would assess all qualifications in the same manner. It seems unfair and disproportionate to apply a different standard to those EU citizens who gained a qualification outside Europe to those who gained it inside when, in our experience, the largest variations in standards exist within Europe itself. We do need more confidence in the robustness of other Competent Authorities that may grant recognition of the third country qualification. Of the few Competent Authorities that do exist, some provide simply a registration function, without implementing robust education and training standards, and disciplinary procedures.

Further information

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