

EXPLANATORY MEMORANDUM TO

THE GENERAL OSTEOPATHIC COUNCIL (CONTINUING PROFESSIONAL DEVELOPMENT) (AMENDMENT) RULES ORDER OF COUNCIL 2018

2018 No. 513

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Order (“the 2018 Order”) approves Rules, made by the General Osteopathic Council (GOsC) which amend the General Osteopathic Council (Continuing Professional Development) Rules 2006 which are set out in the Schedule to S.I. 2006/3511 (“the 2006 Rules”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The General Osteopathic Council has made the General Osteopathic Council (Continuing Professional Development) (Amendment) Rules 2018, which are set out in the Schedule to the 2018 Order, in exercise of the powers conferred by sections 6(2) and (3), 17 and 35(2) of, and paragraph 15(1) of the Schedule to, the Osteopaths Act 1993 (“the 1993 Act”). Section 35(1) of the 1993 Act provides that Privy Council approval is required for the exercise of the General Osteopathic Council’s power to make rules and section 36(1) of the 1993 Act provides that such Privy Council approval shall be given by an order made by the Privy Council.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
5.2 The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The GOsC regulates the practice of osteopathy in the United Kingdom, promoting and maintaining proper professional standards and conduct of its registrants.
- 7.2 In 2011, the Department of Health published a command paper *Enabling Excellence: Autonomy and Accountability for Healthcare Workers, Social Workers and Social Care Workers* (Enabling Excellence)¹. This paper set out proposals for the regulatory system for healthcare workers across the UK and social workers in England.
- 7.3 Enabling Excellence asked each of the health professions regulatory bodies which are accountable to Westminster to continue to develop the evidence base that will inform their proposals for revalidation or alternative means of ensuring continuing fitness to practise. The command paper stated that for those professions where there is evidence to suggest significant added value in terms of increased safety or quality of care for users of health care services from additional central regulatory effort, it should develop its processes appropriately.
- 7.4 The Professional Standards Authority for Health and Social Care (PSA), which reports annually on the performance of all health professional regulators has been scrutinising the development of the General Osteopathic Council's (GOsC) new continuing professional development (CPD) scheme and has cited this as evidence that the GOsC meet standard 6 of the PSA Standards of Good Regulation which states 'Through the regulator's continuing professional development / revalidation systems, registrants maintain the standards required to stay fit to practise'².
- 7.5 The GOsC has developed an evidence base to demonstrate a need to enhance its current CPD scheme, and is doing so through amending its CPD scheme through its CPD rules, along with other regulatory activity including the issuing of guidance, resources and communications.
- 7.6 The changes being effected by these Rules are-
- to change an osteopath's CPD cycle from yearly to 3 yearly;
 - to introduce the requirement for a peer discussion review as part of the osteopath's learning with others CPD requirement;
 - to remove the exemption from the CPD requirement for newly registered osteopaths;
 - to require the GOsC to consult on and issue CPD guidance.
- 7.7 The content of the existing CPD requirement is entirely self-directed. The GOsC has concluded that a more robust, but proportionate CPD process is required to take account of osteopaths' often isolated working environments and the risks to the public presented in osteopathic practice. The peer discussion review as part of the learning with others requirement allows osteopaths' performance to be discussed with their peers. This process will help improve patient safety arising from independent practice. The other anticipated benefits of the new CPD requirement for a peer discussion

¹ Enabling Excellence - http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_124374.pdf

² The PSA Annual Review of Performance: General Osteopathic Council (2016/17) containing this standard is available at: <https://www.professionalstandards.org.uk/docs/default-source/publications/performance-reviews/performance-review-2016-17-gosc.pdf?sfvrsn=6>. Earlier reports are available at: <https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/read-performance-reviews> and PSA Annual Reports to Parliament are available at: <https://www.gov.uk/government/publications?departments%5B%5D=professional-standards-authority-for-health-and-social-care>

review include reduced isolation, peer support and enhanced patient care. The peer discussion review will provide peer assurance of practice in accordance with standards.

- 7.8 Instead of the completion of 30 hours CPD each annual CPD cycle (which must include at least 15 hours of learning with others), an osteopath will be required to complete 90 hours of CPD over a 3 year period and this must include at least 45 hours of learning with others. This extended cycle enables a more flexible timetable for the completion of the CPD hours considered necessary and proportionate for continued safe practice and patient safety while also reducing the need to make a statutory application at the end of each year if that year's CPD cannot be completed for reasons such as illness or maternity leave.
- 7.9 The removal of the exemption from the CPD requirement for newly registered osteopaths is consistent with the overall policy intention enhancing patient safety and patient care, reducing professional isolation and supporting engagement with peers. Removal of this exemption supports new registrants' transition into practice and brings consistency with the position of other regulated health professions.
- 7.10 The inclusion in the rules of a requirement for the GOsC to issue guidance indicating how the CPD requirement might be satisfied, with the addition of a requirement for the GOsC to consult before issuing such guidance helps to ensure that the osteopaths are supported to undertake the CPD scheme.
- 7.11 In order for the GOsC to make these changes in legislation it was required to run a public consultation.

Consolidation

- 7.12 GOsC will produce a consolidated version of the legislation amended by this Order for publication on its website at <http://www.osteopathy.org.uk/news-and-resources/document-library/legislation/the-consolidated-gosc-cpd-rules-2018/>

8. Consultation outcome

- 8.1 The GOsC published its consultation on the rules on its website on 21st September 2017, the consultation was open for a period of eight weeks until 16th November 2017 and a number of interested parties were informed, including all osteopaths, patients, professional bodies, educational bodies and others. A focus group to discuss the consultation was also undertaken involving patients, osteopaths, the Institute of Osteopathy, the National Council of Osteopathic Research, the Council of Osteopathic Educational Institutions and representatives from regional osteopathic groups across the UK on 7 November 2017. The GOsC's consultation had a small number (15) of written responses however, this response rate is comparable to other responses to GOsC consultations on rules, for example, the GOsC's consultation on Professional Indemnity Insurance Rules in 2014-15 had six responses. The GOsC received written responses from osteopaths, patients, a professional organisation and other health professionals. A full consultation analysis report has been published at www.osteopathy.org.uk/news-and-resources/document-library/consultations/amended-cpd-rules-consultation-analysis-report/: The remainder of this section provides a summary of the matters outlined more fully in that consultation document.

- 8.2 It should be noted that the GOsC's consultations on the original policy proposals (as opposed to the rules implementing them) received over 400 responses, the majority of which were favourable to the proposed scheme. The independent consultation analyses are published at <http://www.osteopathy.org.uk/news-and-resources/document-library/consultations/cpd-consultation-analysis-report/> and <http://www.osteopathy.org.uk/news-and-resources/document-library/continuing-professional-development/cpd-discussion-document-consultation-analysis-march-2013/>. These indicated whilst there were particular areas for further consideration (for example, more detailed guidance about when a peer discussion review could be completed with clearer examples, and further guidance and support for osteopaths undertaking the Peer Discussion Review, support for osteopaths to undertake CPD throughout the three year period), the broad structure of the scheme was well supported. Since these consultations which concluded in 2015, the GOsC has been undertaking work in partnership with stakeholders to provide clear guidance which is available on a dedicated microsite at <http://cpd.osteopathy.org.uk>.
- 8.3 **CPD requirements and implementation arrangements adequately set out in rules and guidance (including peer discussion review)** – the majority of respondents agreed that the amended CPD rules adequately set out the requirements for consulting on and publishing the CPD guidance. Of the respondents who disagreed (three) made comments related to:
- Selection and role of the peer and timing of peer discussion review – respondents were concerned about who would be responsible for selecting reviewers. The CPD guidance shows that the selection of the peer is a matter for the osteopath.
 - Clarity around annual renewal of registration requirements where currently a CPD Annual Summary Form is submitted. The rules provide that the CPD Form will be required on a three yearly basis, at the end of the new CPD cycle. Further communications from the GOsC to consultees have confirmed that the previously required CPD Annual Summary Form will no longer need to be submitted annually.
 - Clarity around the description of the first CPD period and the transitional CPD period – respondents felt that the technical language of the rules meant that there was a monthly CPD requirement. Following consultation, the proposed rules were changed to provide clarity on the transitional arrangements for those osteopaths already part of the way through their current CPD cycle. The GOsC has also reflected this in the associated CPD Guidance.
- 8.4 **Removal of exemption from CPD for new graduates** – most respondents (14 of 15) agreed that the current exemption of new graduates from CPD should be removed from the CPD rules.
- 8.5 **Equality and diversity implications** – most respondents (13 of 14) did not think that there were any aspects of the amendments to the Rules which will adversely affect osteopaths, or members of the public in relation to gender, race, disability, age, religion or belief, sexual orientation or any other aspect of equality.
- 8.6 In summary, the consultation proposals were supported. Some matters of policy, process and communications were raised, as indicated above, and these will be considered further by the GOsC as the scheme is rolled out. A detailed response and the key issues have been set out in a consultation response document published by the

GOSc and can be found on its website at: www.osteopathy.org.uk/news-and-resources/document-library/consultations/amended-cpd-rules-consultation-analysis-report/

9. Guidance

- 9.1 The GOSc's draft *CPD guidance*³ was included in the consultation on the GOSc's proposals to amend its CPD rules. The guidance will be subject to further consultation before final publication.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses as it can impact upon registrant fees paid to the GOSc by self-employed Osteopaths. The estimated impact on these professionals is a benefit, therefore, the policies outlined will add no regulatory burden to small businesses.

12. Monitoring & review

- 12.1 The duty under section 28 of the Small Business, Enterprise and Employment Act 2015, for a Minister of the Crown to make provision for review in secondary legislation, does not apply in respect of this Order which is an Order of the Privy Council made under section 36(1) of the Osteopaths Act 1993.
- 12.2 The PSA conducts annual performance reviews of each of the health and care professional regulatory bodies. It is anticipated that the PSA, when performing such reviews, will take into account the changes introduced by this Order and provide insight into the establishment of these measures. The Department will also keep these measures under review as part of its role in developing and maintaining the professional regulatory landscape.

13. Contact

- 13.1 Jamie Samuel at the Department of Health and Social Care, Telephone: 0113 254 4767 or email: Jamie.Samuel@dh.gsi.gov.uk should be contacted if you have any queries regarding the instrument.

³ GOSc CPD guidance <http://cpd.osteopathy.org.uk/resource/cpd-guidelines/>