

The Chiropractors Bill [Bill 13 of 1993/94]

Research Paper 94/29

14 February 1994



A Private Members' Bill to provide statutory regulation for the chiropractic profession was presented by Mr. David Lidington on 16 December 1993 and is due to have its second reading on 18 February 1994. This paper explains the background to the Bill and examines its provisions.

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I Background

A. Introduction

Chiropractic has been defined as a therapy which "uses joint-adjusting procedures, manipulation, massage, and other techniques to treat musculo-skeletal complaints. Much emphasis [is] placed on use of spinal X-rays for the diagnosis of mechanical problems."¹ The Chiropractors Bill (Bill 13 of 1993/4) was introduced as a Private Members' Bill by Mr. David Lidington on 16 December 1993, after Mr. Lidington had come fourth in the Ballot. The Bill is due to have its second reading on 18 February 1994.

The purpose of the Bill is to introduce a statutory regulatory framework for chiropractic on similar lines to that provided for osteopathy by the *Osteopaths Act 1993* (cap 21). The King's Fund report on the regulation of osteopathy which formed the basis for much of that Act had considered and rejected the idea of a bill to regulate the two professions together:

"We know that chiropractors wish to promote legislation to regulate the education and practice of chiropractic in this country and we acknowledge the the similarities between chiropractic and osteopathy. While we recognise that a single Bill to regulate both professions is superficially attractive, we are advised that it is doubtful whether this would be practicable at the present time. Moreover, our terms of reference asked us to consider only the position of osteopaths: any extension of our remit would effectively have required us to embark on a further and more extensive round of consultation in the knowledge of Government's clearly expressed preference for legislation dealing with one profession at a time. A simple amalgamation of the two professions would not, we feel sure, be acceptable. In those circumstances we decided not to seek an extension of our remit but to recommend a Bill to regulate only the education, training and practice of osteopaths in the United Kingdom. "²

¹ British Medical Association, *"Complementary medicine: new approaches to good practice"*, 1993, p.x

² King Edward's Hospital Fund for London, *"Report of a working party on osteopathy"*, 1991, p.18

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However, it was assumed that the regulation of osteopathy could well lead on to the regulation of other complementary therapies. In a House of Lords debate on complementary and conventional medicine on 9 May 1990, Baroness Hooper [then Parliamentary Under-Secretary of State for Health] stated:

"We have eyed developments within the osteopathy profession with considerable interest, not only from the osteopaths' point of view but also as a possible model for other professions, particularly those which have reached an appropriate level of maturity with an established form of voluntary regulation and infrastructure and which wish to pursue the path to regulation. I know that several other groups are interested in statutory regulation: one group of chiropractors in particular has made plain in recent months its desire for regulation. The osteopaths have clearly shown the way forward and it is for others to follow."³

This view was echoed by chiropractors in January 1993, when the Osteopaths Bill was going through Parliament:

"We hope a Chiropractors Bill will follow without delay to prevent poorly-trained manipulators, once the Osteopaths Bill comes into force, from calling themselves "chiropractors" rather than "osteopaths", thus merely shifting one profession's problems on to another."⁴

B. Chiropractic - the present position

In the UK, there are three schools of chiropractic: the Anglo-European College of Chiropractic, the McTimoney School of Chiropractic and the Witney School of Chiropractic. Three organisations, the British Association of Applied Chiropractic, the British Chiropractic Association and the Institute of Pure Chiropractic, maintain voluntary registers of chiropractors. However, there is no legal requirement to belong to any organisation, hold any qualification, or be listed on a register in order to call oneself a chiropractor. This mirrors the position of all other complementary therapies except for osteopathy.

³ HL Deb, 9 May 1990, c.1432

⁴ "The Chiropractors' Position", *Chiropractic Brief*, January 1993

The British Medical Association feels that this situation leaves individuals seeking chiropractic treatment in a vulnerable position:

"It is difficult at present for individuals to be certain that the therapist whom they are consulting is competent to practise. Similarly, it is not easy for doctors to ensure that the therapists to whom they transfer care of patients are competent. The present situation, in which anyone is free to practise, irrespective of their training or experience, is unacceptable. Where individuals undergo courses of training designed to equip them for the practice of particular therapies, these should conform to minimum standards appropriate to the responsibilities and demands of that therapy.

The BMA recommends that a *single* regulatory body be established for each therapy."⁵

The Government's position has consistently been that it is for individual professions themselves to take the necessary steps for statutory regulation. In an answer to a written parliamentary question on 13 December 1989, Mr. Freeman [then Parliamentary Under-Secretary of State for Health] stated:

"Practitioners of alternative or complementary therapies who are not registered with the General Medical Council and who are therefore not eligible to work within the NHS, are nevertheless at liberty to offer their services privately. It is for individual patients seeking the services of complementary practitioners, to satisfy themselves as to the competence of the practitioner concerned.

If members of a particular profession are concerned to ensure that professional standards are maintained and believe that statutory regulation is the best way of achieving this end, then it is for the profession itself to take all necessary steps necessary to obtain their goal."⁶

C. The King's Fund report

In 1991, three associations, the British Chiropractic Association, the Institute of Pure Chiropractic and the British Association of Applied Chiropractic, came together to form the "Chiropractic Registration Steering Group" with the aim of setting common standards for

⁵ BMA, op cit, p.143

⁶ HC Deb, 13 December 1989, c.676W

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education and training of chiropractors in the UK. The Group agreed that within five years of legislation coming into force, all schools of chiropractic in the UK would have minimum standards in accordance with those set down by the European Council on Chiropractic Education. This co-operation within the profession encouraged the King's Fund Management Committee to set up a Working Party under Sir Thomas Bingham with a brief to draw up proposals for the statutory regulation of chiropractic in the UK. The Working Party's terms of reference were:

"Having regard to the growing public demand for chiropractic treatment and the increasing support, both professional and political, for early legislation to establish a statutory register to regulate the education, training and practice of chiropractic for the benefit and protection of patients, to consider the scope and content of such legislation, to make recommendations and to report."⁷

The Working Party began by inviting the Chiropractic Registration Steering Group to comment on the King's Fund report on osteopathy⁸ and suggest any necessary alterations for the regulation of chiropractic. The Working Party then drew up provisional proposals which they submitted for comment to Government departments, chiropractic associations, medical and related organisations, consumer and patient organisations and educational organisations. There appeared to be general agreement among these organisations as to the need for legislation; to quote from the Working Party's report:

"Our consultative letter was favourably received by virtually all recipients, subject only to a few comments on detailed points. Where it seemed right to us to do so we modified our provisional proposals."⁹

The proposals finally published in the Working Party's report included the creation of a "General Chiropractic Council" to oversee a statutory register of qualified practitioners, arrangements for the registration of chiropractors, including transitional provisions, arrangements for the regulation of professional conduct, including the power to impose penalties and the restriction of the title "chiropractor" to those registered with the Council.

The Bill presented by Mr. Lidington closely follows the suggestions of the King's Fund Working Party.

⁷ King Edward's Hospital Fund for London, *Report of a working party on chiropractic*, 1993, p.vii

⁸ King Edward's Hospital Fund for London, *op cit*, 1991

⁹ King Edward's Hospital Fund for London, *op cit*, 1993, p.18

II The Bill's provisions

The long title of the Bill is "A Bill to establish a body to be known as the General Chiropractic Council; to provide for the regulation of the chiropractic profession, including making provision as to the registration of chiropractors and as to their professional education and conduct; to make provision in connection with the development and promotion of the profession; to amend, and make provision in connection with, the Osteopaths Act 1993; and for connected purposes."

A. The General Council and its committees

Clause 1 establishes a body to be called the General Chiropractic Council whose duty is to develop, promote and regulate the chiropractic profession. This General Council will have four statutory committees: an education committee, an investigating committee, a professional conduct committee and a health committee. The General Council is also able to set up other committees if it so wishes. The membership and powers of the General Council and the four statutory committees, together with provisions for membership of the General Council during a transitional period after the Act first comes into force, are set out in Schedule 1. Clause 1 also allows Her Majesty by Order in Council to amend the provisions in Schedule 1, if requested to do so by the General Council. Such an Order in Council would be subject to the negative resolution procedure in either House of Parliament.

B. Registration of chiropractors

Clause 2 requires the General Council to appoint a Registrar of Chiropractors to establish and maintain a register of chiropractors.

Clause 3 sets out the conditions for acceptance as a fully registered chiropractor. Applicants must pay the appropriate fee, satisfy the Registrar that they are of good character and good mental and physical health and have a recognised qualification. There are also transitional arrangements during the two years after the register is opened: applicants who were practising before the opening of the register and who satisfy the Registrar that for at least five years they have practised lawfully, safely and competently will be regarded as possessing a recognised qualification. Any experience dating back more than seven years before the register opened will not be counted as part of the requisite five years. The General Council is also empowered to make rules allowing chiropractors with a qualification obtained outside the UK to be registered, if the Registrar is satisfied that they have reached the necessary standard of competence.

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Clause 4 sets out the conditions for acceptance as a conditionally registered chiropractor during a transitional period of two years after the opening of the register. Applicants must pay the appropriate fee, satisfy the Registrar that they are of good character and good mental and physical health, satisfy the Registrar that for at least four years (since the date six years before the register opened) they have practised lawfully, safely and competently and, if required to do so, pass a test of competence. Applicants must also give an undertaking that, within five years of the opening of the register, (or a shorter period defined by the Registrar), they will complete any additional training and gain any experience specified by the Registrar and comply with any other conditions the Registrar may impose.

Applicants who are not able to satisfy the condition of four years' practice may be able to qualify for conditional registration. They must hold a qualification in chiropractic which, while not being recognised by the General Council, has also not been refused recognition by the General Council. It is then for the Education Committee to advise the General Council whether or not the applicants should be exempted from the requirement of four years' practice and be eligible for conditional registration.

The General Council is empowered to make rules allowing for conditional registration to become full registration. Unless conditional registration has been converted into full registration within five years of the opening of the register, it will cease to have effect. If the Registrar imposed a shorter period of time for the applicant to complete training, gain experience or comply with other conditions, then conditional registration will cease to have effect at the end of this shorter period.

Clause 5 allows the General Council, after consultation with the profession, to make rules providing that applicants entitled to full registration may initially be registered with provisional registration. During a period of provisional registration, the chiropractor may only practise under the supervision of a fully registered chiropractor approved by the General Council. Provisional registration must be converted into full registration within a year; the General Council is empowered to set down rules for this conversion.

Clause 6 requires the register to show whether each registered chiropractor has full, conditional or provisional registration and to give their practice address. The General Council is also empowered to make general rules in connection with registration, covering, for example, the way the register is kept, the manner in which applicants should apply for registration, how the Registrar should satisfy him or herself whether the conditions of registration have been met, the fees to be charged and the penalties available if the appropriate fee is not paid.

Clause 7 sets down the way in which the Registrar may suspend the registration of a chiropractor.

Clause 8 sets down the way in which a person who has been struck off the register by order of the Professional Conduct Committee may apply for their registration to be restored.

Clause 9 requires the General Council to make the register available for inspection by the public and to publish a list of names and registered addresses of registered chiropractors at least once a year. The General Council may also make rules enabling other information from the register to be published. The published register must be available free or for sale at a reasonable cost. Copies of the published register, extracts from it and certificates concerning the registration status of a person signed by the Registrar are all admissible as evidence.

Clause 10 makes provision for investigating allegations that an entry in the register is fraudulent. If, after the Registrar has reported, the General Council is satisfied that an entry is fraudulent, it may order the entry to be removed. The person whose registration has been removed in this way has the right of appeal to Her Majesty in Council. At any point during the investigation, the Registrar may suspend the registration in question if they believe that this is necessary to protect the public. In these circumstances, the person whose registration has been suspended should be able to argue their case before the Investigating Committee and be legally represented.

C. Professional education

Clause 11 defines the general duty of the Education Committee as being to promote the high standards of education and training in chiropractic. The General Council is required to consult the Education Committee on matters concerning education, training, examinations and tests of competence.

Clause 12 allows the Education Committee to arrange inspections of institutions which offer education (both pre-registration and post-registration) in chiropractic or where examinations or tests of competence take place.

Clause 13 requires the General Council to publish the standard of proficiency required for the practice of chiropractic. If this standard is varied, the new standard must be published and will not take effect for a year from the date of publication.

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Clause 14 allows the General Council to recognise qualifications from UK institutions for the purpose of the Act if, after consulting with the Education Committee, they are satisfied that the required standard has been met. Privy Council approval is also required. Where qualifications are granted by an institution outside the UK, the General Council is able to grant recognition, but is also entitled to impose additional conditions for registration. Provisions are also made for practitioners registered to practise in other EC countries: their qualification will be regarded as recognised in the UK, but, subject to Community law, the General Council may impose additional conditions for registration. The General Council is required to publish a list of qualifications which are currently recognised, and may require the Education Committee to publish a statement setting out on what basis it will recommend a qualification for recognition.

Clause 15 allows the General Council to set limitations on its recognition of particular qualifications, for example by date. Where the Council refuses the application of an institution for its qualification to be recognised, it must give reasons for its refusal.

Clause 16 allows the General Council, with the approval of the Privy Council, to withdraw recognition from a particular qualification if the Education Committee makes such a recommendation.

Clause 17 allows the General Council, after consulting members of the profession, to make rules requiring registered practitioners to undertake further training.

Clause 18 requires institutions offering education or where examinations or tests of competence take place to provide any information reasonably required by the Education Committee.

D. Professional conduct and fitness to practise

Clause 19 requires the General Council, after consultation with members of the profession, to publish a code of practice.

Clause 20 sets out procedures for dealing with allegations of unacceptable professional conduct, professional incompetence, conviction of a criminal offence or inability to practise due to health problems. Such allegations should be referred to the Investigating Committee, although the General Council is empowered to make rules for them to be referred to a person appointed by the Council for preliminary consideration. Where the Investigating Committee believes there is a case to answer, it will refer the case, either to the Health Committee

(where the chiropractor's state of health is the cause of the inquiry) or to the Professional Conduct Committee (for all other allegations).

Clause 21 permits the Investigating Committee to suspend the registration of a chiropractor for up to two months during its investigation if it believes this is necessary to protect members of the public. Before the suspension takes effect, the chiropractor is entitled to appear before a hearing of the Investigating Committee and to be legally represented.

Clause 22 sets down the steps which the Professional Conduct Committee can take if it is satisfied that the allegation is true. If the allegation concerns conviction for a criminal offence and the Committee considers that such an offence does not affect the chiropractor's fitness to practise, it may choose to take no further action. In other circumstances, the Committee may admonish the chiropractor, impose conditions on their right to practise for up to three years, suspend registration for a specified period of up to three years or order the Registrar to remove their name from the register. In cases where the Committee makes an order imposing conditions on the chiropractor's right to practise or suspending their registration, it may vary the terms of the order at any time while the order is in force. At any hearing before the Professional Conduct Committee, the chiropractor is entitled to be legally represented. The Committee is required to publish a list, at least once a year, giving the names of chiropractors found guilty of the allegations made against them, together with the nature of the allegations and the steps taken by the Committee.

Clause 23 sets down the steps which the Health Committee can take if it is satisfied that a chiropractor is unfit to practise because of their physical or mental health. The Committee may make either an order imposing conditions on the chiropractor's right to practise for up to three years or an order suspending their registration for up to three years. While such an order is in place, the Committee may vary its terms. The chiropractor is entitled to be legally represented at any hearing before the Health Committee.

Clause 24 permits the Professional Conduct Committee and the Health Committee to order the interim suspension of a chiropractor's registration while they are investigating the allegation if they believe this is necessary to protect members of the public. The chiropractor in question has the right to be legally represented in any such hearing, and also has the right to appeal against an interim suspension order if one is imposed.

Clause 25 allows the Committee who made the interim suspension order to revoke it where a change in circumstances makes the order unnecessary. The chiropractor concerned has a right of appeal if a request for the order to be revoked is turned down.

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Clause 26 requires the General Council to make rules governing the way the Professional Conduct and Health Committees carry out their investigations into allegations against a registered chiropractor.

Clause 27 requires the General Council to appoint legal assessors whose function will include advising the Registrar, the Health Committee, the Professional Conduct Committee, the Investigating Committee and any person appointed to undertake preliminary investigations on behalf of the Investigating Committee on points of law.

Clause 28 allows the General Council to appoint medical assessors, whose function would include advising those listed in Clause 27 on matters within their professional competence.

E. Appeals

Clause 29 allows an individual to appeal to the General Council against the Registrar's decision to refuse registration, to refuse to renew registration, to register the applicant with provisional or conditional registration, to refuse the conversion of conditional or provisional registration into full registration, or to remove the name of a registered chiropractor from the register (other than under an order from the Professional Conduct Committee). Further appeal on a point of law is permitted to the High Court of Justice (England and Wales), the Court of Session (Scotland) or the High Court of Justice in Northern Ireland.

Clause 30 allows an individual to appeal to an appeal tribunal against the decision of the Health Committee and makes certain requirements as to the composition of the tribunal and the procedures it should follow.

Clause 31 allows an individual the right of appeal to Her Majesty in Council against the decision of the Professional Conduct Committee. An individual may also appeal to Her Majesty in Council regarding the decision of the appeal tribunal described in Clause 30, but only on a point of law.

F. Offences

Clause 32 makes it an offence for anyone who is not a registered chiropractor to describe themselves as such, either explicitly or implicitly. It is also an offence for a person to fail to appear as a witness or produce a document if required to do so by the Professional Conduct Committee, the Health Committee or the appeal tribunal described in Clause 30. The penalty

on summary conviction of such an offence is a fine not exceeding level five on the standard scale (currently £5,000).

G. Monopolies and competition

Clause 33 makes the regulatory provisions made by the General Council or any of its Committees subject to competition policy under the *Fair Trading Act 1973* and the *Competition Act 1980*.

H. Miscellaneous

Clause 34 gives the Privy Council default powers to direct the General Council or take over its functions if the Privy Council believes that the General Council is failing to perform its functions adequately.

Clause 35 requires the rules made by the General Council under this Bill's provisions to be approved by the Privy Council. Where the Privy Council makes rules in relation to the conduct of appeals to Her Majesty in Council, these will be subject to negative resolution by either House of Parliament.

Clause 36 sets down that where approval of rules is required by the Privy Council, this power will be exercised by statutory instrument.

Clause 37 enables the General Council to make rules requiring registered chiropractors to hold professional indemnity insurance.

Clause 38 amends the *Access to Health Records Act 1990* and appropriate statutory instruments governing data protection and access to personal health information, in order to include registered chiropractors and osteopaths within their requirements.

Clause 39 provides for the supply of video recordings used in the training of osteopaths and chiropractors to be an exempted supply for the purposes of the *Video Recordings Act 1984*.

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Clause 40 amends the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 and the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland) 1979, in order to exclude registered chiropractors from the provisions of the *Rehabilitation of Offenders Act*.

Clause 41 requires the General Council to keep proper accounts, have them audited, publish them together with any report by the auditors and send a copy of the published accounts and report to the Privy Council. The Privy Council is required to lay these accounts before both Houses of Parliament.

Clause 42 and Schedule 2 make minor amendments to the *Osteopaths Act 1993* (cap 21) to match requirements in this Bill.

Clause 43 lists definitions of terms used in the Bill

Clause 44 gives the short title, commencement, transitional provisions and extent of the Bill.

III Responses to the Bill

A. The Government response

In the Second Reading debate on the Lords Osteopaths Bill in 1992, Baroness Hooper (Parliamentary Under-Secretary of State for Health) expressed support for the Bill and explained the Government's reasons for leaving such legislation to be introduced as a Private Members' Bill:

"To answer a question raised by the noble Earl, Lord Baldwin, we have long said that regulation of the complementary therapy professions should be by way of Private Member legislation, so that Parliament can make up its own mind on this important issue without political inferences. We remain of that view. Nevertheless, I hope that Parliament will feel able to give the Bill its safe passage. I appreciate also and must point out the difficulties in a measure of this sort being piloted through a short and extremely busy Session. If strong support is shown for the Bill, but it unfortunately runs out of time or fails for some procedural reason to complete its course, we may need to look again and consider the case for introducing a Government Bill in a future Parliament."¹⁰

Earlier in the same debate, Baroness Hooper stated that "we follow with equal interest the new King's Fund Working Party, again chaired by Sir Thomas Bingham, which seeks to make progress for chiropractors."¹¹

It therefore seems likely that this Bill will have Government support.

B. Other responses

As mentioned earlier (see page 4), virtually all the organisations approached by the King's Fund Working Party commented favourably on their proposals, and none questioned the need for legislation. Those consulted included chiropractic organisations and individuals, medical organisations and individuals, statutorily regulated bodies connected with health, Government departments, consumer organisations, educational organisations and individuals and professional organisations.

¹⁰ HL Deb, 31 January 1992, c.1612

¹¹ HL Deb, 31 January 1994, c.1612