 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Healthcare and Associated Professions (Indemnity Arrangements) Order	
Lead Department/Agency	Department of Health	
Stage	Final	
IA number	DH8037	
Origin	European	
Expected date of implementation	SNR 5	
Date submitted to RPC	4 April 2014	
RPC Opinion date and reference	24 April 2014	RPC13-DH -1695(3)
Departmental Assessment		
One-in, Two-out status	IN	
Estimate of the Equivalent Annual Net Cost to Business (EANCB)	£0.9 million (In Scope) £2.1 million (Out of Scope – EU) £3.0 million (Total)	
RPC Overall Assessment	GREEN	
<p>RPC comments</p> <p>The IA is fit for purpose. The Department has addressed fully the comments in our final stage opinion dated 12 March 2014. In particular, the Department has now placed this proposal as in scope of OITO. The OITO assessment and the estimates of the direct costs to business can now be considered robust.</p>		
<p>Background (extracts from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p><i>“Some regulated health care professionals in this country are currently practising without indemnity/insurance cover, or with insufficient cover. In these circumstances, patients would be unable to obtain compensation in the event of a negative incident negligently caused by the activities of a health care professional. Further, European legislation has come to force requiring Member States to ensure that systems of professional liability are in place on its territory. “</i></p> <p>What are the policy objectives and the intended effects?</p> <p><i>“The objective is to identify and put in place a system to ensure that those harmed by the negligent activities of regulated health care professionals have a means of redress. This is in accordance with the requirements of European Law. This will be addressed with minimal impact on health professionals and the organisation for which they work. “</i></p>		
<p>Comments on the robustness of the OITO assessment</p>		

The proposal is to require individuals who are regulated as health care professionals, and who are practising, to have an indemnity arrangement in place (e.g. an insurance policy) as a condition of their registration. It does not require additional insurance where health care professionals are already covered for their practice by an employer, or by means of membership of a professional body which offers indemnity as a benefit. The proposal will cover all regulated health care professionals treating patients in the UK and not just regulated health care professionals treating patients as part of cross-border health care. Only the latter is required by the Directive.

The Department has addressed the comments in our previous opinion.

Gold-Plating

The Department's IA now places the proposal as in scope of OITO. The Department accepts that requiring independent health professionals (except midwives) to have indemnity insurance in respect of all patients goes further than the Directive's minimum requirements, which relate only to cross-border health care. This is now scored as an 'IN', with an EANCB of £0.9 million. This estimate appears to be robust.

For independent midwives, the Department states that, based upon advice from the Association of British Insurers, it is unlikely that it would be possible for the market to provide insurance in relation to cross-border cases alone. This is due to the very small number of patients over which to spread the risk and the potential for significantly costly claims. Even if it were possible, the cost to independent midwives of insurance is unlikely to be less if insurance were mandated for cross-border cases alone. Given that the proposal, by including all independent midwives, extends the scope of the proposals beyond that required by the Directive, there would appear to be an element of 'gold-plating'. However, we accept the Department's assessment that it is reasonable to assume that there is a zero additional cost. The EANCB of the proposal relating to independent midwives, £2.1 million, appears to be robust.

Direct Costs to Business and EANCB Estimates

The overall EANCB has now increased from £0.1million to £3.0 million. Our previous opinion questioned the approach where costs to business are assumed to be almost fully offset by benefits to business. This is because the IA appeared to make it clear that the benefits accrue mainly to individuals rather than businesses. The present IA notes that there should be some benefits to business, but that it is not possible to monetise them. It no longer assumes that the monetised costs to business are almost entirely offset by benefits to business.

The overall EANCB of £3.0 million appears to reflect a reasonable assessment of the direct impacts on business.

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

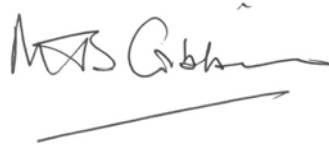
The proposal is European in origin and a SaMBA is therefore not required. This is the case even where a proposal involves gold-plating.

The Department has included a SaMBA (paragraphs 124-125, page 35). The IA now provides further details on how independent health professionals have been consulted and involved in exploring potential options to meet the requirements of the Directive.

Quality of the analysis and evidence presented in the IA

The Department has addressed fully the other comments in our consultation stage opinion. This includes greater explanation and breakdown of the figures, in particular those in Tables 1 and 2 (pages 15-16). The Department has also provided further information on the extensive stakeholder engagement and consultation that has taken place on the development of the proposals.

Signed

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal line underneath it.

Michael Gibbons, Chairman