
15 March 2011

Health Professions Council response to the European Commission consultation on the Professional Qualifications Directive

The Health Professions Council welcomes the opportunity to respond to this consultation.

The Health Professions Council is a statutory UK-wide regulator of healthcare professionals governed by the Health Professions Order 2001. We regulate the members of 15 professions. We maintain a register of professionals, set standards for entry to our register, approve education and training programmes for registration and deal with concerns where a professional may not be fit to practise. Our main role is to protect the health and wellbeing of those who use or need to use our registrants' services.

Our comments

Our responses to the questionnaire are set out below under each question.

Simplification

Question 1: Do you have any suggestions for further improving citizen's access to information on the recognition processes for their professional qualification in another Member State?

We have a number of suggestions to make for how access to information on the recognition processes for qualifications could be managed. We would suggest that improvements should be made to the Internal Market Information system (IMI) web portal to modernise it and make it more easily accessible and user friendly. We would suggest adding links to the relevant competent authorities in each country with up-to-date details for the appropriate sections or departments to contact in each organisation. A general overview of the relevant regulatory systems and the history of those systems would be helpful so users have a clear understanding of how the provisions in the Directive are translated into the relevant systems in each country.

We also suggest that the national contact points in each country should be clearly identifiable, with clarity provided about what their role is around sharing information.

Question 2: Do you have any suggestions for the simplification of the current recognition procedures? If so, please provide suggestions with supporting evidence.

The HPC would support harmonising the training standards for more professions, with particular emphasis on the need to do this added to the

Directive. We consider that this would simplify recognition procedures overall, allowing for the easier movement of professionals within Europe.

Enforcing best practice

Question 3: Should the Code of Conduct become enforceable? Is there a need to amend the contents of the Code of Conduct? Please specify and provide the reasons for your suggestions.

We consider that it would be helpful if the Code of Conduct was made compulsory. However, before making any change to the enforceability of the Code, we would like to see appropriate supporting education made available to the relevant competent authorities. We consider that this should include a comprehensive review of the Code of Conduct that engages with relevant competent authorities and contact points to allow for any necessary changes or updates to the Code. Following that, a targeted education programme could be carried out to update the relevant authorities on what the requirements of the Code are, and how they should be applied.

Mitigating unintended consequences of compensation measures

Question 4: Do you have any experience of compensation measures? Do you consider that they could have a deterrent effect, for example as regards the three years duration of an adaptation period?

We have experience of applying compensation measures for international applicants who do not meet the standards of proficiency we set for their profession. However, we do not have 'standard' compensation measures. For example, an appropriate period of adaptation is usually designed for an applicant, which will include a combination of relevant supervised practice and/or training to enable the applicant to update their skills in a specific way so they can meet all the standards of proficiency for their profession.

We consider that sometimes this requirement may have a deterrent effect, but it is important that standards for safe and effective practice are met. We are aware that not all applicants who are required to undertake a period of adaptation are satisfied with the process. However we have also received positive feedback from applicants who completed a period of adaptation and who benefited from further training and who gained relevant experience in the UK environment. We are also aware that some applicants experience difficulty in gaining placements for supervised practice for some of the larger professions we regulate.

Question 5: Do you support the idea of developing Europe-wide codes of conduct on aptitude tests or adaptation periods?

In principle, we would support introducing Europe-wide codes of conduct on aptitude tests. However, we have some concerns about how such codes of conduct would be developed and applied in practice. It may be most helpful to provide shared principles on how competent authorities should process applicants fairly. We consider that this proposal would be more workable if there were shared education standards for more professions across Europe. We consider that the first step towards establishing Europe-wide codes of

conduct on aptitude tests would be for European states to establish basic agreed standards that would apply to all regulated professions. Shared codes of conduct on aptitude tests could then be developed consistently and fairly.

Question 6: Do you see a need to include the case-law on “partial access” into the Directive? Under what conditions could a professional who received “partial access” acquire full access?

Any applicant who applied for partial access to a profession in a limited scope of practise would still be considered through our usual process for considering international applications. However, anyone who wants to work in the UK and use one of the titles we protect must be able to prove that they meet all the standards of proficiency for their profession at the point of registration. A person who cannot show that they meet all these standards, or who can only meet some of them would not be able to join our Register or use a protected title. However applicants who meet all the standards of proficiency and become registered could then choose to limit their scope of practise to a particular area, should they wish to do so.

We have not received any requests for ‘partial access’ to a profession. If an applicant to our Register has a limited scope of practise in one of the professions we regulate, the registration assessors would design a period of adaptation for that applicant so they were able to meet all the standards of proficiency and become registered. If a professional, once registered, chooses to work only within a very limited scope of practise, it is their choice to do so. Another option open to international applicants is to apply for temporary registration which does not require the applicant to meet all the standards of proficiency, but only allows them to work on an occasional/part time basis.

Facilitating movement of new graduates

Question 7: Do you consider it important to facilitate mobility for graduates who are not yet fully qualified professionals and who seek access to a remunerated traineeship or supervised practice in another Member State? Do you have any suggestions? Please be specific in your reasons.

We do not consider the mobility or regulation of graduates who are not fully qualified as a priority area. The HPC does not currently register students. To be able to facilitate the movement of students between states for access to paid training or supervised practice in the way envisaged by this question, we would need to put in place significant additional regulatory provision for students.

Question 8: How should the home Member State proceed in case the professional wishes to return after a supervised practice in another Member State? Please be specific in your reasons.

In a situation such as this, the HPC would need to consider whether it could treat the applicant as a UK graduate, or a graduate from the EEA area. We would need to be certain of the quality of the supervised practice, and would need to consider whether the supervised practice formed part of a qualification that we would approve, had the applicant completed their study in

the UK. Our main concern would be that in order to register an individual, we need to be certain that the applicant would meet all the standards of proficiency we set for their profession, regardless of where they completed their training.

Facilitating movement between non-regulating and regulating Member States

Question 9: To which extent has the requirement of two years of professional experience become a barrier to accessing a profession where mobility across many Member States in Europe is vital? Please be specific in your reasons.

In our experience this type of application is uncommon. An applicant who applied for registration in these circumstances would be considered through our usual process for international applications. Their application would be assessed against our standards of proficiency for their profession to ensure they were able to practise safely and effectively in the UK. We consider that this requirement protects against the risk posed by EEA nationals who have trained in a profession that is not regulated in their home state, but which is regulated in another member state, such as the UK.

Where a profession is not regulated in the home member state of an applicant who applies for registration with the HPC, we would expect the applicant to have at least two years of professional experience to be able to assert mutual recognition rights. This situation is not very common, but we have had some experience of dealing with these types of applications.

While we recognise that these requirements may be seen as a barrier, we consider that it is important to ascertain whether the accumulated education, training, and work experience of an individual meet the standards we set for safe and effective practise in the UK.

Question 10: How could the concept of "regulated education" be better used in the interest of consumers? If such education is not specifically geared to a given profession could a minimum list of relevant competences attested by a home Member State be a way forward?

We consider that 'regulated education' is better for service users because it would facilitate the movement of qualified professionals within the EEA area. The HPC already approves UK-based education programmes that meet our standards of education and training, which are harmonised standards for all the different types of programmes we approve. We have no objection in principle to harmonised standards of education and training that would apply to a range of professions across the EEA area.

European professional card

Question 11: What are your views about the objectives of a European professional card? Should such a card speed up the recognition process? Should it increase transparency for consumers and employers? Should it enhance confidence and forge closer cooperation between a home and a host Member State?

We consider that the introduction of a professional card would be a positive step, which has the potential to speed up the process of applying for registration in different countries in the EEA area, and would make movement of professionals on a temporary basis much easier.

We would consider that such a system would be useful to regulators, as it is likely that we would be able to more readily register professionals who were able to provide a universally recognised form of verification providing details of their education, training, skills, and experience. If we were able to quickly and easily identify whether an applicant to our register met our standards or not, this would mean that the process to gain temporary registration could potentially be expedited.

Question 12: Do you agree with the proposed features of the card?

For the European professional card to be successful, we believe it would need to be closely linked with a strengthened IMI system. This would be necessary so clear, reliable information would be readily accessible to all competent authorities. We also consider that the card should be issued annually, as it will be most useful for temporary registration, and this will ensure that there is a regular check on professionals who are using the system.

Question 13: What information would be essential on the card? How could a timely update of such information be organised?

We consider that along with appropriate identifying information about the card holder, such as photo identification, it would be essential to include the name of the relevant competent authority from the country of issue on the card, so it would be clear when the card was presented to another competent authority, what organisation would be the appropriate contact point.

For the system to be most useful, it would also be important for the linked IMI system to include information about suspended or struck off professionals, so competent authorities can check whether a professional is fit to practise.

Question 14: Do you think that the title professional card is appropriate? Would the title professional passport, with its connotation of mobility, be more appropriate?

We consider that the title 'professional card' is appropriate. We do not support the proposed title 'professional passport' as it may cause confusion between the rights conferred by passports generally, as compared with ability to use the professional card to provide a basis for proving a professional's identity and qualifications in countries within the EEA area.

European curricula

Question 15: What are your views about introducing the concept of a European curriculum – a kind of 28th regime applicable in addition to national requirements? What conditions could be foreseen for its development?

We would support harmonising more professions across Europe by introducing shared curricula for the kinds of professions we regulate. We would prefer to see agreed standards that could be shared by existing education programmes, or for those programmes to be adapted to meet the same or similar standards, rather than duplicating effort by setting up another European curricula that would only apply to a separate training regime.

Cross-border competition and mobility

Question 16: To what extent is there a risk of fragmenting markets through excessive numbers of regulated professions? Please give illustrative examples for sectors which get more and more fragmented.

The HPC considers that it is important to remember that professional regulation is put in place to protect the public. While there may be an argument for avoiding overly burdensome regulatory regimes, we consider that a certain level of regulation is necessary—particularly in the psychological, health, and social care professions. This is to ensure that the public can have confidence that professionals meet recognised standards for safe and effective practice, and that action can be taken to ensure professionals who do not meet those standards cannot practise.

We also consider that regulation will vary between member states for a variety of reasons, depending on a particular country's history, ideology, or the political views of the government in power. It is also important to note that professions have developed differently in different member states. Psychotherapy is an example of a profession that has developed very differently in different member states. In the UK, this profession has developed separately from the disciplines of psychology and medicine, but in another country such as Italy, a professional who wishes to practice in the field of psychotherapy must be qualified as a psychologist. We believe that for these reasons, individual member states will need to put in place a variety of appropriate regulatory regimes to protect the public. Different member states need to be responsive to these requirements, and realise that it will not always be possible to harmonise regulatory systems or to avoid regulation entirely.

Question 17: Should lighter regimes for professionals be developed who accompany consumers to another Member State?

We consider that professionals who accompany particular service users to another member state (for example, a physiotherapist who travels to the UK to provide care for a specific sports team while that team is touring) generally do not pose a regulatory risk, as they are not offering services to the general public. We consider that professionals practising in this way do not require formal regulation, and that a lighter regime would be appropriate to allow for the free movement of these professionals.

Making it easier for professionals to move temporarily

Question 18: How could the current declaration regime be simplified, in order to reduce unnecessary burdens? Is it necessary to require a declaration where the essential part of the services is provided online without declaration? Is it necessary to clarify the terms “temporary or occasional” or should the conditions for professionals to seek recognition of qualifications on a permanent basis be simplified?

The current declaration regime for professionals who wish to practise on a temporary and occasional basis could be simplified by introducing the proposed European professional card system—as long as the system is efficient and effective. However, we would consider that some type of declaration may continue to be necessary to protect the public. Before an individual begins to practise their profession in the UK, we want to be sure that they are able to meet the standards we set for safe and effective practise, and also to ensure that they were not circumventing the approval process in order to practise here. In our experience, we have not found the current declaration system to be overly burdensome for applicants.

We consider that a clearer definition of ‘temporary and occasional basis’ would be helpful. Because the term is vaguely defined within the Directive, we consider that it weakens the regulators’ ability to protect the public as this function is constrained by the requirement to facilitate the freedom of movement of professionals within the EEA.

Question 19: Is there a need for retaining a pro-forma registration system?

We consider that a pro-forma registration system is helpful as it is clear that all professionals must meet the same requirements.

Question 20: Should Member States reduce the current scope for prior checks of qualifications and accordingly the scope for derogating from the declaration regime?

At present, the HPC asks applicants who are applying to practise in the UK on a temporary or occasional basis to provide proof of their qualification and legal establishment in their home state. We consider that this approach is consistent with the intent of the Directive.

However, we consider that it is important to check the relevant qualifications and experience of applicants who are applying for permanent establishment in the UK. EEA applicants who have a right to practise, and have citizenship of another country within the EEA or Switzerland have rights of mutual recognition under EU law. To assert their mutual recognition right, an applicant’s declaration must be accompanied by proof of their nationality; attestations of legal establishment (or proof of two years’ professional experience); and evidence of their professional qualification. We consider that this process could be made much lighter for applicants if the IMI system was strengthened and applied to a greater range of professions.

Automatic recognition

Questions 21-26

The provisions outlined in the questions on automatic recognition do not apply to the professions regulated by the HPC.

Continuing professional development

Question 27: Do you see a need for taking more account of continuing professional development at EU level? If yes, how could this need be reflected in the Directive?

The HPC would warmly welcome some form of recognition of the importance of continuing professional development (CPD) by the European Commission. Recognition by the Commission of CPD as professional best practice would be positive as reflective practice and a commitment to lifelong learning are both important attributes in maintaining high standards of professional practice over time. The Commission may also want to consider whether over time competent authorities should be required to introduce systems to take account of registrant's CPD.

Internal Market Information system (IMI)

Question 28: Would the extension of IMI to the professions outside the scope of the Services Directive create more confidence between Member States? Should the extension of the mandatory use of IMI include a proactive alert mechanism for cases where such a mechanism currently does not apply, notably health professions?

The HPC would welcome the extension of the IMI system to more professions outside the scope of the Services Directive. We consider that if the IMI system was used for more professions, there would be a corresponding increase in the use of IMI by competent authorities, which would in turn improve the overall effectiveness of the system. We consider that an appropriate proactive alert mechanism for health professions could be useful, but there may be limits to its use depending on any relevant privacy requirements.

Question 29: In which cases should an alert obligation be triggered?

We consider that instead of creating an alert obligation, that all competent authorities should make use of IMI, which in turn would make relevant information more accessible when competent authorities in other countries need to ascertain the background of professionals.

Language skills

Question 30: Have you encountered any major problems with the current language regime as foreseen in the Directive?

The HPC has found the current language requirements in the Directive to be workable in practice. Our own standards of proficiency reference language requirements and require most of our registrants to communicate in English to

the standard equivalent to level 7 of the International English Language Testing System (IELTS) with no element below 6.5.

For speech and language therapists, we require registrants to communicate in English to a standard equivalent to level 8 of the IELTS, with no element below 7.5. This standard applies to EEA applicants. The requirement is higher for speech and language therapists than for all other professions, as communication in English is a core professional skill.

EEA nationals who apply for registration in any of the other professions we regulate are exempt from providing evidence of their English language ability. While we cannot test an EEA national's English language ability, applicants to our register will be aware of the relevant standards we set when they apply for registration. We consider that by having English-language requirements as part of our standards, if subsequent concerns are identified about any registrant's ability to communicate in English, we are able to take action to protect the public.

We do not have any robust evidence which would lead us to conclude that the current requirements are in any way problematic. We do sometimes receive complaints about the language skills of our registrants, although in some cases we believe these are due to cultural differences as to how different people pronounce, hear, and understand English words. We are also aware of a wider debate around the English language proficiency of professionals who come from different parts of the EU to work in the UK. In our view it is important that employers put in place rigorous selection and induction procedures. We consider that the existing directive around language testing is workable, but others involved (such as employers) need to act appropriately in addition to the work the HPC does as a regulator to ensure that patients and clients receive good services.