

8 June 2011

Health Professions Council response to the House of Lords European Union Committee review of the Professional Qualifications Directive: Mobility of Health Professionals

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

The Health Professions Council is a UK-wide statutory regulator of health and care 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. We can take action when an individual misuses a protected title. 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 individual questions in the review are set out below under each question.

Background: fundamental principles

Question 1: What benefits are derived by healthcare professionals and patients from mobility?

We consider that the benefits for healthcare professionals from mobility within the EEA area would be greater opportunities to gain and share experience or knowledge that may be more specialised than that available in a professional's home state. As a result, patients may benefit because they would be cared for by professionals who have a greater breadth of knowledge and skill.

Question 2: What risks have you observed arising from mobility and to what do you attribute those risks?

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.

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.

We are concerned that the normal requirements to meet all the standards we set for our registrants do not apply to temporary registrants. While these registrants are obliged to meet our standards of conduct, performance, and ethics, eg they are not required to maintain our standards of continuing professional development. There is a concern that if we received a complaint about a temporary registrant, we would have a more limited basis on which to deal with that complaint through our fitness to practise process.

The Directive is not specific enough in its definition of what “temporary or occasional” should mean in terms of work hours or the types of roles it would be appropriate for temporary registrants to undertake. We would consider that in the interests of public protection there are some registrants who should instead apply through our international route for full HPC registration, but under the Directive we have very limited legal powers to oblige them to do so.

Question 3: Where do you think the balance should lie between a regime covering the mobility of all workers, including non-healthcare workers, with the objective of maintaining high standards of patient safety?

The HPC considers that it is important to remember that professional regulation is put in place to protect the public. While encouraging the mobility of professionals is important, 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. We believe that for these reasons, individual member states will continue to operate 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.

Automatic recognition

Question 4: How content are you with the system of automatic recognition as currently applied to doctors, general care nurses, dentists, midwives and pharmacists? What suggestions do you have for improvements? Should it be extended at all to any other healthcare professionals?

The provisions regarding automatic recognition in the Directive do not apply to the professions regulated by the HPC. Given that we receive a significant number of applications for registration from professionals in the EEA, in principle we consider that automatic recognition has the potential to be beneficial for some other health professions such as physiotherapists. We consider that this could potentially simplify recognition procedures overall, significantly reduce the amount of time it would take to process registration applications, and allow for the easier movement of professionals within Europe.

However, we also have some reservations about the limitations of automatic recognition. We believe the process the HPC currently uses to assess whether professionals meet standards of proficiency for their profession is a higher test than automatic recognition, which recognises a level of qualification and experience rather than ability to practise safely and effectively. There is variation in the scope of practice in professions in Europe compared with the UK, and there are some professions which practise autonomously in the UK that are not able to practise autonomously in other EU countries. This means that in some cases there are no equivalent professions to those the HPC regulates in other countries in the EU. We would hope that the experience of those already governed by the sectoral directives might help to identify whether any additional safeguards are necessary to mitigate the risk to the public posed by these issues, whilst facilitating freedom of movement.

Administrative cooperation

Question 5: To what extent do you consider that appropriate systems are in place for administrative cooperation between Member States, particularly as regards fitness to practise?

In our experience, administrative cooperation varies from country to country, and to a certain extent, depends on the regulatory structure in each country. While some countries have similar national regulatory systems to that of the UK, others may have regional authorities or may not regulate some professions. While we generally find the Internal Market Information system (IMI) useful in verifying the registration of EU applicants to our register, we are not able to use it to verify the background or registration of all applications we receive from the EEA.

Competent authorities in some member states do not share fitness to practise information with regulators in other countries, due to data protection concerns. We believe that changes should be made to the Data Protection Directive to allow for the more ready sharing of fitness to practise information through IMI.

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 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 and registration status of professionals.

Language competence

Question 6: Article 53 of Directive 2005/36/EC requires those benefiting from mobility under the Directive to have knowledge of languages necessary for practising the profession in the host Member State. Are you content that this requirement has been applied satisfactorily as regards healthcare professionals and ought it to be strengthened?

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. We set a higher requirement of speech and language therapists equivalent to level 8 of the IELTS, with no element below 7.5 as communication in English is a core professional skill for that profession. This standard applies to EEA applicants.

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 systematically 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.

European professional card

Question 7: The Commission refers in its consultation paper to the possible introduction of a European Professional Card. What is your response to this suggestion? Under what conditions would it be helpful for healthcare professionals and patients?

We consider the introduction of a shared system to improve the sharing of information between professionals, regulators, and the public in the interests of facilitating the free movement of professionals within the EU would be a positive step. The proposed European professional card 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. However, we would consider that some type of declaration may continue to be necessary to protect the public.

The key to the success of a European professional card would be a strengthened and compulsory IMI system, to allow for the ready sharing of relevant information about professionals. We consider that the IMI service standards should be improved so information is shared more quickly between competent authorities. The service standards of the Voluntary Code of Conduct should also be made compulsory. This would ensure clear, reliable information would be readily accessible to all competent authorities, allowing applications to be processed more quickly, benefitting healthcare professionals. 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 easily check whether a professional is fit to practise.

The current declaration regime for professionals who wish to practise on a temporary and occasional basis could be simplified by the introduction of a professional card—as long as the system is efficient, effective, and cost effective. However, we do not consider that a physical card would be needed for all professionals, although it would certainly be useful for some professions such as those covered by automatic recognition. For other professions, a card may be less useful because there is no cross border agreement on the equivalence of qualifications. For most health professions we consider that it would be most useful for the home competent authority to issue a professional card on request from a registrant who wishes to move and practise temporarily in another EU member state. The professional could then use the card to apply for registration with the competent authority in the member state they wish to work in.

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. We also consider that it would be important to indicate when the card was issued and how long it is valid for.

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.

A handwritten signature in cursive script that reads "Marc Seale". The signature is written in black ink and is positioned above the printed name and title.

Marc Seale

Chief Executive and Registrar