

COUNCIL

Revised EC directive on the recognition of professional qualifications: update on implementation

Meeting: 11 February 2015

Status: for discussion

Lead responsibility: Alistair Bridge
(Director of Strategy)

Contact details: 020 7307 3477;
abridge@optical.org

Purpose

1. The purpose of the paper is to provide Council with an update on the implementation of revised directive on the recognition of professional qualifications. The directive covers a number of issues, including [alert mechanism/EPC], but this paper focuses on the issues of partial access and the mutual evaluation initiative. For more background on the directive please see the Council paper SC32(14).

Strategic Objective

2. This area of work contributes to our mission of protecting and promoting public health and safety by helping to achieve our strategic objective of implementing a targeted and proportionate system of regulation.
3. Alistair Bridge, Director of Strategy is responsible for this area of work, supported by Linda Ford, Head of Education and Standards and Marie Bunby, Policy Manager.

Background

4. At the Council meeting in October 2014 we explained that the revised directive on the recognition of professional qualifications came into force in January 2014 and must be implemented by member states by January 2016. The revised directive creates a requirement to create a new register to accommodate EU professionals seeking partial access to practise with a narrower scope of practice than UK registrants.
5. We highlighted the need to understand the potential impact of the requirement for member states to allow 'partial access' to professionals from other member states and how the provisions of the directive would be transposed into our legislation.

Analysis

Partial access

6. We obtained legal advice on the provisions of the directive concerned with partial access and have been reassured that, although we will need to consider each

application for partial access on a case-by-case basis, it is unlikely that applicants will be able to fulfil the conditions set out in the directive. In particular, we will be able to insist that the applicant pursues full access by undertaking further education and training, provided this falls short of a full training programme. In the event that the conditions for partial access are met, there is also the possibility that we could reject the application on public safety grounds.

7. We obtained further legal advice on how our legislation might be amended to create a new partial access register. The Department of Health was due to consult on a set of regulations and amendments to the healthcare regulators' legislation in early 2015. However, we were advised in November 2014 that this would be delayed until May/June 2015, in part due to the need to wait for the European Commission to produce implementing acts on the professional card and the alert mechanism.
8. We responded to the Department for Business, Innovation and Skills' (BIS) consultation on transposition of the revised directive and proposals for a set of revised regulations. Our response is available on our website: <https://www.optical.org/en/get-involved/consultations/our-responses-to-other-consultations.cfm>
9. We continued to engage with the Alliance on UK Health Regulators on Europe (AURE), which comprises the nine healthcare regulators and shares information about the implementation of the revised directive. Members of the Department of Health and BIS also attend these meetings.
10. The General Medical Council (GMC) has also been considering how the partial access provisions of the revised directive will be transposed into their legislation and wrote to the Department of Health on 24 November 2014 proposing to implement the partial access provisions through '*an appropriate generic legislative measure, most likely under the aegis of the Department for Business, Innovation and Skills (BIS), rather than via changes to numerous and varied profession specific provisions (including changes to the Medical Act)*'. We consider that this is a sensible proposal and are waiting to see how the Department of Health responds. We have been invited to a meeting with the Department of Health and the other healthcare regulators on 9 February 2015 to discuss partial access and how it will be transposed into legislation.

Mutual evaluation as part of the transparency initiative

11. The revised directive also contains a new mechanism intended to create greater transparency and ensure the regulation of professions is justified, known as the transparency initiative. The European Commission is conducting a series of peer reviews (known as a mutual evaluation whereby member states will discuss and compare their current regulatory frameworks and share best practice) to better understand how the general interest is safeguarded and to assess if certain regulatory provisions are still necessary. 'Optician' was one of the six professions chosen to begin the process in 2014.

12. The GOC drafted a submission (narrative report) to the European Commission on behalf of the UK Government to provide an overview of how the UK regulatory framework protects the general interest objective (patient safety) in the optical sector, a copy of which was enclosed with the Council paper in October 2014. The report formed part of the evidence base for the peer review discussion with other EU member states that took place on 24 November 2014 in Brussels. Linda Ford, Head of Education and Standards, attended with BIS representatives on behalf of the UK Government. A summary of the meeting (provided by the European Council of Optometry and Optics (ECOO)) is outlined below:
 - 12.1 Feedback was provided by members on the summary report to correct misrepresentations.
 - 12.2 Discussions indicated in most groups that member states saw no need for deregulation.
 - 12.3 The discussion on optician also deviated to include optometry, which led to a discussion on re-thinking the classification of optician, which had originally been classified by the European Commission as part of the retail sector rather than the healthcare sector.
 - 12.4 The European Commission asked national coordinators in some cases for further information (e.g. Bulgaria - more insights on the profession, Cyprus - on implementation of continuous education into law etc).
 - 12.5 Some groups noted that the understanding of the differences between optics / optometry / ophthalmology including their national differences was not always fully understood by all people present.
 - 12.6 In one group the risk of internet sales and the need to manage this carefully was raised.
 - 12.7 One group also entered into discussions on the potential risks in optometric service and in particular issues arising from the recovery of the cost of the eye examination being conditional on the sale of vision correcting devices. All the present representatives agreed that this can only be achieved by properly charging for eye examinations.
13. We gave an update about our attendance at this meeting to the Joint Optical Committee on the European Union (JOCEU), which comprises the UK's professional bodies and the GOC.
14. We understand that it will now be the responsibility of BIS to put together an action plan for the UK. BIS were insistent that no changes were needed to the UK system of regulation as a result of the transparency initiative and therefore we are not expecting the action plan to contain any proposals to change the system of regulation for opticians.

Implications

15. The project has the following implications:
 - 15.1 GOC's reserves – we need to do further work to understand the potential costs of implementing the revised directive, including the IT costs that might be associated with introducing the alert mechanism and putting administrative procedure online;
 - 15.2 GOC budget – not likely to have any implications in the current year, but we will need to factor into next year's budget;
 - 15.3 Legislation – some of the provisions of the revised directive, including the partial access provisions in particular, might require amendments to our legislation;
 - 15.4 Resources – there is likely to be some impact on resources as the revised directive is implemented, although it is difficult to quantify these at this time given that we do not have full details of how online procedures will work and it is not possible to accurately estimate where the partial access provisions will lead to an increase in EU/EEA applicants;
 - 15.5 Equality and diversity – we have outlined the concern in 'risks' regarding registrants in the UK not being treated on an equal basis to EU/EEA professionals; and
 - 15.6 Human Rights Act – no implications.

Devolved Nations

16. No specific implications for the devolved nations have been identified.

Communications

17. We will develop our strategy for communications with stakeholders once we have greater clarity about how the revised directive will be implemented.

Risks

18. There is a general risk that if resources are not applied to keeping up to date with developments in Europe the GOC will not be able to sufficiently influence legislation affecting the GOC or ensure that we are complying with European legislation.

Recommendations

19. Council is asked to note the issues raised in this paper and the timeline for further work as set out below.

Timeline for further work

20. Key dates for Council to note are listed below.

Action	Date
Meet with Department of Health and other healthcare regulators to discuss partial access.	9 Feb 2015
Internal meeting to agree next steps following Department of Health meeting.	Late Feb 2015
Engage with BIS consultation on draft text of revised UK regulations.	c. April 2015
Engage with Department of Health consultation on draft text of revised UK regulations.	c. May/June 2015
Consider producing internal guidance for considering EU applications (to include partial access).	Autumn 2015