



Department  
for Business  
Innovation & Skills

**TRANSPOSITION OF THE REVISED  
MUTUAL RECOGNITION OF  
PROFESSIONAL QUALIFICATIONS  
DIRECTIVE 2005/36/EC**

**CONSULTATION RESPONSE FORM**

**14 AUGUST 2014**

## **Annex V: Consultation on the transposition of the revised Mutual Recognition of Professional Qualifications Directive (2005/36/EC) response form**

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The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 06/11/2014

Please return completed forms to:

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We would like respondents to tick a box from a list of options that best describes them as a respondent. This allows views to be presented by group type.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
√	<b>Competent Authority</b>
	Trade union or staff association
	Other (please describe)

General:

Question 1: Do you agree with our proposal to revoke and replace the current 2007 Regulations rather than amend them?

Comments:

**Yes.**

## European Professional Card (article 4a – 4d)

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As mentioned previously, the specifics of implementation are difficult to address at this stage as we are awaiting the adoption of an implementing act for the EPC. With this in mind, we have the following questions:

Question 2: Do you have any suggestions for professions that should be included in the EPC?

Comments:

**No, however we do not think that the EPC is appropriate for the osteopathic profession. We do have fundamental concerns about how it would work in practice and the potential impact on patient safety.**

Question 3: Within the scope of article 4a.7 of the Directive relating to the power to adopt an implementing act, can you suggest any issues that we should be conscious of with regards to the EPC?

Comments:

**While the osteopathic profession is not involved in the current pilot of the EPC, we are closely monitoring its use, to determine whether it adds value in terms of mobility versus the impact on patient safety.**

**We are concerned that the proposed timelines may prevent a competent authority from assessing an applicant's qualifications and experience, particularly when individuals are applying from a country with no equivalent competent authority. (Osteopathy is regulated in seven European countries – Finland, France, Iceland, Liechtenstein, Malta, Switzerland and the UK).**

**We are also not clear what would happen if we had justifiable doubts about the documentation received through IMI, which may not have been identified by the host Member State.**

**We strongly believe that competent authorities should be closely involved in any consultation process to develop an implementing act.**

Question 4: Do Competent Authorities expect the EPC to deliver any cost savings from the transfer of responsibility for checking qualifications to home Member States? Please provide any detail possible on the expected cost implications of the EPC for your authority.

Comments:

**We cannot identify any cost savings at present.**

**The home Member State may check the qualifications to confirm they are valid, but we would still need to compare this qualification with the UK standards as part of the application process for registration.**

Partial Access (Article 4f):

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Question 5: Bearing in mind the requirements for partial access set out in the Directive (article 4f.1), which professions do you consider eligible for partial access and why?

Comments:

**While we accept that partial access is in the revised directive, we fundamentally believe that this principle undermines the whole regulatory process in the UK. Healthcare professions, therefore, should not have access to partial access.**

**Osteopathy in the UK is a primary care profession. This means patients have direct access to osteopaths, without the need for referral from a doctor. Osteopaths are trained in differential diagnosis to identify when it is appropriate to refer on to a GP for further investigations. Under the principle of partial access a therapist practising osteopathic techniques may wish to apply to join our Register, without these essential skills.**

Question 6: Do you think that we should require applicants who wish to access a profession on a partial basis to do so using the title for that profession in English rather than the professional title of their own state? Is the answer different in relation to different professions?

Comments:

**We can see the potential for confusion in both instances. Whatever approach is taken it will be necessary for any register entries to be annotated in such a way as to ensure that members of the public have clear information about the qualifications and limitations of such registrants.**

Question 7: Are Competent Authorities able to provide any estimate of the cost of addressing an individual partial access case as well as any costs associated with changes (such as IT systems) to their registers to accommodate partial access?

Comments:

**The costs will depend on whether a separate register is required to display details of registrants with partial access in which case this would involve significant IT costs. The alternative could be to annotate register entries to ensure that patients had sufficient information about such registrants.**

**We assume that in addition to potential IT costs, the provision of partial access would require a separate assessment process, involving specific training for registration assessors.**

Temporary service of provisions (articles 7, 8):

Page 17

Question 8: Do the new requirements for temporary provision require clarification?

Comments:

**It would be helpful to have a definition of what constitutes temporary or occasional. While we understand that terms need to be sufficiently broad to fit the needs of different professions, it must be possible to provide details on a minimum or maximum duration and a limit on the number of visits in a given year, as is the case in tax law.**

Question 9: In relation to the option to require a language declaration in relation to professions with safety implication, which professions do you think fall within this description?

Comments:

**We believe that all health professions, including osteopathy, fall within this description.**

Question 10: Do any Competent Authorities anticipate additional costs incurred from the temporary service provision amendments?

Comments:

**While the number of osteopaths providing temporary services is low, practitioners do not have to pay an annual retention fee, but the application still needs to be processed which requires resources.**

Conditions for recognition (article 13):

Page 18

Question 11: Are the conditions for recognition sufficiently clear?

Comments:

**We are concerned that with the change in years of experience, healthcare professionals could work in the UK without having been in practice for nine years out of the last 10. This is a potential risk to patient health and safety due to the person not being up to date with current practice.**

**We are also concerned that along with losing clinical skills, the practitioner may not be able to current societal expectations of practice, for example boundary issues.**

### Compensation measures (article 14):

Page 18

Question 12: Although the applicant has the right to choose, Members States' can stipulate, by way of derogation, an adaptation period or aptitude test. Do you think there is a case, in relation to a profession, for expanding the category of cases where we may stipulate either an aptitude period or adaptation test as set out in Article 14.3? If so, please provide reasons for this.

Comments:

**We would strongly support a derogation to be able to select an aptitude test for the following reasons:**

- **We already have the systems in place**
- **It is more accessible for the applicant due to regularity and lower costs than a period of adaptation**
- **In terms of patient safety an aptitude test can highlight any potential language competency issues promptly.**

*Question 13: Does applying a compensation measure raise the administrative costs of processing an application?*

Comments:

**There are costs involved in assessing the application after the compensation measure has been completed.**

### Recognition of professional traineeship (article 55a)

Page 19

Question 14: What limits to the duration of professional traineeships should be set, if any, in relation to a relevant profession?

Comments:

**It is not clear what is covered by the term 'professional traineeship'.**

Question 15: Are there any current guidelines on organisation and recognition of professional traineeships?

Comments:

**Not that we are aware of.**

Automatic recognition on the basis of common training principles (articles 49a and 49b):

Page 20

These principles are subject to delegated acts adopted by the Commission. Therefore we are interested in your views in general terms only at this stage.

Question 16: Is the provision for setting up common training principles/frameworks of interest to your profession?

Comments:

**Osteopathy does not yet meet the threshold in order to set up a common training framework. However, we have been working with our colleagues in Europe to develop a *European Standard on Osteopathic Healthcare Provision* through the CEN (European Committee for Standardisation – [www.cen.eu](http://www.cen.eu)) process, going to final vote early next year. While this Standard will not impact on the UK, this Standard seeks to move towards greater consistency in standards of osteopathic education, training and practice in those countries without any regulatory mechanisms.**

**Once implemented this ‘CEN’ Standard will not impact on the ability of national Member States to register/recognise qualifications from elsewhere in Europe, where it is regulated.**

Question 17: Do you consider your profession to be outside the scope of a CTF or CTT and why?

Comments:

**We are monitoring take up of common training principles/frameworks by other health professions, with a view to considering the impact of implementation in terms of increasing professional mobility and ensuring patient safety.**

*Question 18: Do Competent Authorities expect common frameworks and tests to reduce administrative costs in processing PQD applications?*

Comments:

**We envisage there would be costs involved in setting up the framework and ensuring it is sufficiently quality assured as not to undermine UK registration requirements.**



Access to information (articles 50.3, 57, 57a):

Page 20

Question 19: Are your procedures already available online?

**Yes**

Comments:

**Information regarding our registration process, including relevant documentation, is available on our public website. Applicants are also able to submit their application online to us.**

Question 20: Do you accept electronic payments?

**Yes**

Comments:

**Applicants can make bank transfers, but there is currently no facility for making direct online payments**

Question 21: Is your Competent Authority already linked in to the PSC?

**Yes**

Comments:

*Question 22: Are Competent Authorities able to provide any information about the expected costs and time taken to make available information through the Points of Single Contact?*

Comments:

**With the small number of applicants we receive and the fact we can provide information electronically, the costs would not be significant.**

*Question 23: Do any Competent Authorities expect substantive costs to arise from providing electronic application processes? Could you please specify expected costs?*

Comments:

**Yes. The costs for providing a fully electronic application process would be disproportionate to the number of applications we receive.**

*Question 24: Do Competent Authorities who have switched to online application systems have any information on the impact this may have had on number of applications?*

Comments:

Exchange of Information (article 56)

Page 21

Question 25: Are you aware of IMI?

**Yes**

Comments:

Question 26: Are you registered with IMI?

**Yes**

Comments:

Question 27: If you are already registered on IMI:

- a. do you find the system easy to use?
- b. do you find the information exchanged useful?

a. **No**

b. **Not sure (we have only had one occasion to use it to date)**

Comments:

**It is not as intuitive as it could be.**

**The usability could be improved, e.g. a notification to say that after submitting information it has been sent/received successfully.**

Question 28: Do you consider you should be designated as a coordinator? Please provide reasons.

Comments:

**We understood we are already designated. The GOsC is the competent authority for osteopathy in the UK.**

*Question 29: Are affected Competent Authorities able to provide more information on how many additional staff may need to use IMI for the alert mechanism and the potential on-going costs of using the system?*

Comments:

**For the few applications we receive currently, we consider this can be managed by existing staff members. This situation may change if the number of applicants increases significantly.**

Alert Mechanism (article 56a):

Page 22

As with the EPC, the specifics of implementation are difficult to address at this stage as we are awaiting the adoption of an implementing act for the Alert Mechanism. With this in mind, we have the following questions:

Question 30: Within the scope of the implementing act (article 56a.8), can you suggest any issues that we should be conscious of with regards to the Alert Mechanism including:

- Eligible authorities or coordinators
- Procedures on treatment of alerts
- Security of processing alerts?

Comments:

**As there are only seven competent authorities for osteopathy, there is more limited scope for use of this Alert mechanism.**

**While we understand that the Alerts will focus on issues affecting an individual's fitness to practise, it would be helpful for clarification on the following:**

- **that removal does not include non-fitness to practise cases (the Lefroy Bill may have an impact on the remit of information shared between competent authorities)**
- **when the three day notification deadline takes effect, and whether this includes working days only**
- **how long information should be published, again to ensure a consistent approach**
- **that the processes for the Alert System are consistent with EU data protection law.**

Transparency initiative (article 59):

Page 23

Question 31: Do you have any views on the most effective exercise of the transparency process?

Comments:

**We think this process would be helpful in highlighting areas where the extension of regulation might be desirable, for example while the osteopathic profession is only regulated in seven European countries it is practised in many more. For patients in those countries it is clearly undesirable for there to be a lack of effective regulation.**

Question 32: Do you know of any Chartered Bodies that should be either removed or added from Annex I? Please give reasons for your answer.

Comments:

**No**

Question 33: Do you know of any regulated professions that should either be removed or added from Schedule I? (<http://www.legislation.gov.uk/uksi/2007/2781/schedule/1/made>) Please give reasons for your answer

Comments:

**No**

Question 34: Has your Competent Authority updated the information on the database (A request to complete the 'Proportionality' tab was sent on 18 July 2014)?

Comments:

**We have no record of receiving this.**

## Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for your views on this consultation.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply **Yes**

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

**Yes**

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