



General  
Osteopathic  
Council

**GOsC response to the Draft Statutory Instrument: European Union (Recognition of Professional Qualifications) Regulations 2015 and the Draft Guidance for Competent Authorities implementing 2005/36/EC**

Thank you for this opportunity to comment on the Draft Statutory Instrument: European Union (Recognition of Professional Qualifications) Regulations 2015 and supporting guidance for competent authorities.

Please find our comments below:

**Draft Statutory Instrument**

*Regulation 6(3)*

'Controls must be proportionate to the activity to be pursued'

- While we understand from the Guidance document that language testing cannot be standardised or conducted systematically it would be helpful for the wording to reflect the revised Directive which makes a distinction between professionals with patient safety implications and other professions. Advice from the European Commission is that language controls for professionals with patient safety implications, such as in healthcare, while justified and proportionate, could be systematic.

*Functions of competent authorities in the United Kingdom in relation to an application for a European Professional Card. Regulation 8(9)*

'But in cases of subsequent applications, the competent authority may not request re-submission of documents in the IMI file which are still valid'

- What is meant here by 'valid'?

*Processing and access to data regarding the European Professional Card  
Regulation 13(2)*

'The competent authorities of the home and host States shall inform the holder of the right referred to in paragraph (1) at the time the European professional card is issued, and remind the holder of such right every two years after that time'

- Does this mean that every two years we will have to write to EEA registrants with an EPC and tell them they can 'request the 'rectification of inaccurate or incomplete data or the deletion or blocking of the IMI file concerned'?

#### *Regulation 13(4)*

'Where the holder of a European professional card issued for the purposes of establishment or temporary or occasional provision of services for professions having public health or safety implications requests deletion of the IMI file, the competent authorities of the host state must issue the holder of professional qualifications with evidence attesting to the recognition of that holder's professional qualifications'

- Does that mean every time an individual deletes their IMI file we would need to send evidence attesting to their recognition? In this instance would proof of their registration number be sufficient?

#### *Documentation and formalities. Regulation 52(3)*

'A competent authority, in case of justified doubt, is entitled to require confirmation from a competent authority of a relevant European state that the applicant is not suspended or prohibited from the pursuit of the profession as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of the applicant's professional activities.'

- We do not consider it sufficient to only refer to concerns about misconduct, as issues around a practitioner's competency and criminal convictions which do not directly relate to the pursuit of professional activities may also initiate a request.

#### *Alert mechanism. Regulation 59(1)*

'A competent authority in the United Kingdom must inform the competent authorities of other relevant European states about a professional whose professional activities have been restricted, or prohibited, even on a temporary basis, by the national authorities or the court in United Kingdom'

- Clarification is needed on what decisions relating to restriction or removal from practice result in an alert being issued. In any given year the GOsC restricts and removes individuals from the Register for any number of different reasons, some of which are the result of administrative rather than conduct/competency related matters, such as non-compliance with CPD requirements or for non-payment of fees. It is important that a clear list of what restrictions should be included is provided to ensure a consistent approach by all competent authorities across Europe.

#### *Regulation 59(3)*

'A competent authority must send the information by way of alert through IMI within three days of the date of the decision restricting or prohibiting the pursuit of the activity in its entirety or in part by the professional'

- Clarification is needed as to when the 'three days' take effect, is this three days after the decision was made, or three days after the decision becomes effective (e.g. after any appealable decisions).

## Draft Guidance

*Title: Guidance for Competent Authorities implementing Directive 2005/36/EC*

- While Directive 2013/55/EU revises aspects of the 2005 Directive, would it be helpful to make some reference to the new Directive either in the title of the guidance or introduction?

*Does the General System apply? And General System Recognition  
Flowcharts pp 6 and 7*

- A general comment that both diagrams could be clearer. In some instances it is not clear if the wording relates to questions or statements and the design of the boxes is potentially confusing, e.g. after stage 4 in the process for recognition under the General System – Establishment (page 7), all 3 boxes should be considered together, not individually.
- We would suggest that 'experience' be included in the wording at Stage 4 as this needs to be taken into account, along with education and training.

*Section 1.5 on page 12*

'Where the differences between professional activities in a home and host state are so wide that a full training programme would be necessary and if the professional requests it, the competent authority must consider whether the conditions for partial access are met. In making this decision they must consider whether the activity can be exercised independently in the applicant's home state. If the conditions are met, the competent authority may still reject the applicant for overriding reasons of general interest'

- Do 'overriding reasons of general interest' include patient safety? If so, we would welcome the insertion at the end of this paragraph to say ... 'such as patient safety'.

*Requirements for further information. Section 4.6 on page 21*

'Checks such as 'CRB' checks or requests for information on good conduct/character cannot be imposed on service providers; this information must be obtained from the authorities in other [EEA States]. The exception to this rule is for the security sector where evidence has to be supplied by the service provider of no criminal convictions – which may be a statement from the local police in his home state. As part of the monitoring role, competent authority can make checks about the provider's status, good conduct, the absence of disciplinary sanctions with the home state authority before registration and at any time after that'.

- CRB checks have now been replaced by Disclosure and Barring checks.
- The revised Directive also requires an attestation of no criminal convictions is also required for the health sector (Article 7), and should be reflected in the guidance.

*Alert mechanism. Section 5.2 on page 27*

'The mechanism requires that all Competent Authorities notify, via IMI, their counterparts in other States of any professional who has been restricted or prohibited from practising, even on a temporary basis within three calendar days of the decision to do so ...'

- Clarification is needed on whether the three days is after the decision is made or after the decision takes effect.
- Clarification is also needed on the definition of 'day'. Does this encompass public holidays and weekends?
- See also our comment on Regulation 59(1).

*Contact point. Section 6.1 on page 29*

'Contact points are also obliged to assist their members seeking recognition in Europe with relevant documentation and may also have to clarify or explain to other contact points or competent authorities such aspects as how the profession in the UK is structured, practised, regulated, level of qualification'.

- If the GOsC does qualify as a contact point it is important to note that we are not a membership organisation and therefore we do not have 'members'. 'Members or registrants' would be a better form of words.

*Language skills. Section 6.3 on page 30*

'Language competence is seen as a matter for employers; not a condition of recognition. Competent authorities cannot demand proof of the applicant's competence of spoken or written English as part of the documents submitted in support of the request for professional recognition; or treat the applicant's as incomplete in the absence of such proof.'

- This does not reflect the fact that many professionals, including osteopaths, work in private practice without an employment structure.

*Safeguarding Vulnerable Groups Act (SVG Act). 6.5 on page 30*

- This whole section needs updating as the Independent Safeguarding Authority (ISA) has merged with the Criminal Records Bureau into the Disclosure and Barring Service (DBS).

**Annex 3. Declaration pursuant to Article 7 concerning the temporary provision of services on pages 38-40**

- Despite what it says in 1.6 about 'all correspondence should be easily understood by those applicants whose mother-tongue is unlikely to be English' this form is rather impenetrable, particularly around training and insurance.
- It might also be helpful to have a glossary of terms such as 'host' and 'established'.

- There also appears to be a mistake at 4.3 which still says two years during the last ten years rather than one year in ten.

### **About the General Osteopathic Council**

The General Osteopathic Council (GOsC) has a statutory duty to regulate the practice of osteopathy in the UK. Osteopaths must be registered with the GOsC in order to practice in the UK.

We work with the public and the profession to promote patient safety by:

- registering qualified professionals
- setting, maintaining and developing standards of osteopathic practice and conduct
- assuring the quality of osteopathic education
- ensuring continuing professional development
- helping patients with concerns or complaints about an osteopath.

For more information about the GOsC see [www.osteopathy.org.uk](http://www.osteopathy.org.uk)