

EDUCATION COMMITTEE
16 MARCH 2011
RQs – STREAMLINING THE PROCESS

<u>Classification</u>	Public
<u>Purpose</u>	For decision
<u>Issue</u>	As a result of considerable delays in the granting of some RQs, discussions have been held with DH about how the process could be streamlined at the Privy Council, DH and internally.
<u>Recommendation</u>	<ol style="list-style-type: none">a. To note the steps being taken with DH to streamline the RQ process.b. To consider the approach to streamlining the GOsC decision process as set out in paragraphs 6 to 9.
<u>Financial and resourcing implications</u>	The work being undertaken as set out in this paper is designed to reduce the number of decisions being reconsidered by Council and Committee members. Additional staff time will be required in the short term to achieve this efficiency.
<u>Equality and diversity implications</u>	None arising from this paper.
<u>Communications implications</u>	We will need to take steps to communicate, in general terms, the issues arising when obtaining Privy Council approval to Council decisions to 'Recognise qualifications'.
<u>Annexes</u>	Annex – Briefing note for the Department of Health about streamlining the RQ process.
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Background

1. Three recent RQ decisions have been delayed for a variety of reasons including a need for a number of revisions following discussion with the Department of Health and their lawyers, and the Privy Council. These amendments have necessitated repeated requests to both Education Committee and Council for approval of changes to RQs.
2. This is clearly an inefficient process both from the perspective of the Education Committee and Council members and also from the perspective of the Department of Health (DH).
3. This paper outlines the steps that we are proposing, in discussion with DH, to streamline the process. The Education Committee is asked to consider to what extent it needs to be involved with each round of amendments and also to note the other actions to be taken in conjunction with DH.

Discussion

DH/GOsC liaison

4. A meeting took place between Gavin Lerner and Nick Clark of the DH and Tim Walker of the GOsC to discuss RQ issues and to explore how the process might be made more efficient. As a result of the meeting GOsC agreed to provide a background briefing and chronology of recent RQs. The briefing is can be found as the Annex to this paper.
5. A further meeting is planned involving DH lawyers and policy officials, and the GOsC to explore improved ways of working including:
 - a. Developing a set of standard type conditions that could be used on RQs without the need for further legal input;
 - b. The type of and circumstances in which minor drafting changes need to be referred back to GOsC;
 - c. Holding a meeting or teleconference following the submission of RQs with legal and policy representatives of both sides to progress matters promptly following submission of information from the General Osteopathic Council.

GOsC decision making

6. The Osteopaths Act 1993 requires decisions on RQs to be taken by the Council on the advice of the Education Committee. This is interpreted as requiring the initial decision and any subsequent negotiated amendments to be approved by both the Education Committee and Council.
7. The substantive discussion on RQs is that which takes place at the Education Committee with the Council only rarely holding a discussion on an RQ decision. In discussion with DH they indicated it is important that Council does have such an opportunity and their initial view is that it would inappropriate for this stage to be undertaken electronically. However, this is an area that should be discussed in more detail with DH.

8. Regardless of how the initial discussion is concluded it is not clear that a further prolonged process is required for all subsequent amendments requested by DH/Privy Council, particularly as many amendments relate to dates, word changes, or other matters which do not materially affect the quality of the education. While Council can not delegate its authority in this area to the Education Committee, it would be possible for Education Committee to waive its right to provide further advice and instead for the Executive to submit the recommendation directly to Council for approval. This type of approval can be given electronically.
9. In the event that major changes are requested, then it is suggested that the Executive consult the Chair of Education Committee as to his view as to whether the Education Committee needs to be involved further.

Recommendations:

- a. To note the steps being taken with DH to streamline the RQ process.
- b. To consider the approach to streamlining the GOsC decision process as set out in paragraphs 6 to 9.

Briefing about the Handling of Recognised Qualifications

Purpose

1. To achieve a streamlined and efficient Privy Council approval for 'Recognised Qualifications'.

Issue

2. The 'recognition of qualifications' process is complex. There is room for efficiencies to be made both in the GOsC process, but also the DH / Privy Council process.
3. A meeting was held on 1 March 2011 with Tim Walker, Chief Executive, GOsC, Gavin Lerner, Director of Professional Standards, DH and Nick Clark, DH to discuss options for a revised and more streamlined Privy Council approval mechanism at the GOsC.
4. This might involve a form of MOU or agreement with the DH lawyers and policy team to ensure that a 'bank' of fairly standard conditions could be agreed and a meeting or teleconference between members of the DH legal and policy team and the GOsC legal and policy team about each RQ.
5. It is hoped that these options may prevent correspondence being batted backwards and forwards for relatively minor matters, wasting resources.

Background

6. The legislative background to the RQ process is set out at Annex A. In essence, qualifications need to be 'recognised' by the Council (on advice from the Education Committee) and approved by the Privy Council. The qualification is not 'recognised' until the Privy Council 'approval' is obtained. Although Section 15(8) of the Osteopaths Act states that 'Where an application is made by any institution for the recognition of a qualification under section 14, the General Council shall notify the institution of the result of its application as soon as is reasonably practicable after the Council determines the application.' This suggests that the legislation does not envisage any particularly lengthy delays in obtaining Privy Council approval.
7. The current process for recognition of a qualification is complex. A full background is set out in our current version of the QAA / GOsC Handbook which is available at: <http://www.qaa.ac.uk/health/GOsC/handbook0506/GOsCHandbook05-06.pdf>

8. The following is an extract from the QAA Handbook:

Week Number	Action
Week 0	Final visitor meeting and oral debrief (end of review)
Week 1	First draft produced by the Review Coordinator (renewal) or QAA officer (monitoring)
[Week 2]	[Visitors comments on first draft.]
Week 3	After the incorporation of visitors' comments on draft one, draft two is sent to Editing Contract Reviewer
Week 4	Editing Contract Reviewer sends editing suggestions to Review Coordinator or QAA officer
Week 5	Review Coordinator/QAA officer incorporates the Editing Contract Reviewer comments as the new draft three, and QAA's Reports Team sends draft three to GOsC
Week 6	GOsC's Education Committee sends draft three to the provider for factual accuracy check (possible invitation to offer a commentary)
[Week 7 to Week 11]	[Education Committee sends out report to Educational Institution for observations or objections. Section 14(8) provides that the period of notice for an institution to make observations or objections shall not be less than one month.]
Week 11	Provider replies to GOsC on the theme of factual accuracy and, where invited, supplies an institutional commentary. GOsC sends the provider's comments on factual accuracy, and any comments of its own to QAA
Week 12	Review Coordinator/QAA officer incorporates factual accuracy changes

	to produce draft 4
Week 13	Review Coordinator/QAA officer delivers draft four to GOsC
Weeks 14 to 22 [Although please note, this timetable depends on the dates of the Education Committee which are scheduled four times per year and therefore can be up to 3 months of waiting time.]	Review Coordinator/QAA officer delivers an oral introduction of the report (draft four) to a meeting of GOsC's Education Committee(usually by end week 17) Reports Team formats draft 4 into publication quality draft five (by end week 20)
By end of Week 22	Formatted report sent to GOsC
[The report is put to the next available meeting of Council (also scheduled for 4 times per year). This can be a further two month period.]	[Conditions agreed and sent to Privy Council.]
[Negotiations between GOsC and DH / Privy Council.]	[This can be inconsistent as further elaborated in this paper.]

The delays in the GOsC Process

9. The GOsC takes time to consider each RQ because they are put before the next available Committee or Council meeting. There are only four meetings per year scheduled to consider a variety of business.
10. It would not be cost effective to schedule meetings on an ad hoc basis even if this were possible in terms of availability of Council and external members.

The delays in the Privy Council Process

11. Detailed chronologies of the most recent RQ issues are set out at Annex B for xxx, xxx and xxx.
12. Specific examples of issues that have delayed the Privy Council process have included:
 - *Changes suggested to a General Condition about Annual Reports which has previously been approved for all (c.13) RQ Orders since c.2004.*

For the xxx (and similarly for the xxx) (original GOsC request attached) the DH advice was:

'The condition in section (e) refers to the GOsC's requirements for assessment lacks certainty (ie are they in a dated document? Where are they found? How will the xxx know what they must comply with at any given point in time?) Would you be content with an amendment to this condition so that it refers to the current requirements as being annexed to the recognition?' DH – 23 December 2010

A further inconsistency arises due to the fact that this has not been raised as an issue for the xxx which has been submitted for approval at the same time.

We have previously raised the inconsistency between the xxx, xxx and xxx advice on 31 January 2010 (see attached), but as at 1 March 2011, we had not received a response.

In part, it is suggested that there was no policy input into the decisions to be made. We were informed that our response was with the lawyers for further consideration.

- *Insignificant drafting issue which could have been resolved by the DH/Privy Council without further discussion and agreement with us:*

In this case, the DH told us that 'GOsC' needed to be replaced with General Osteopathic Council.

'The xxx must ensure that there is an appropriate range, diversity and number of patients within the clinic so that the needs of students are met for the duration of the recognition of this qualification. If the General Council have concerns that this requirement is not being met they may require xxx to submit an action plan for the General Council's approval and take any further steps required to monitor implementation of that action plan. The conditions should refer to the General Council not "GOsC" as this is not defined in law.' – DH, 23 December 2010

We agreed this statement and it was waiting for further consideration by the DH lawyers and Privy Council as at 1 March 2011.

- *A specific wording suggested by the Department of Health that conflicts with previous advice.*

Extract from DH advice 'Thanks for sending this through and apologies for how long it has taken to get back to you. With regards to the conditions that have been proposed (a, b and c), these needs firming up. It has been suggested that a timescale should be included and have revised so that

this can be done, but a date hasn't been added as this is for yourselves and the xxx to agree on.

However, a standard has also been included that the General Council must be satisfied. So that all parties are aware of what is expected maybe this should be written down? The changes are highlighted in red in the attached document, could you confirm that yourselves and the xxx are happy with this please.' DH, 11 August 2010

So the issue here is that a generic condition is not sufficient for the DH lawyers to agree. They require a specific date by which the condition needs to be completed.

CONDITIONS	
a.	The xxx should, by[date], demonstrate to the satisfaction of the General Council that it has implemented more formal procedures for recording processes and decisions within governance and management.
b.	The xxx should, by [date], demonstrate to the satisfaction of the General Council that it has improved the décor of the xxx's current premises so as to ensure it is conducive to effective osteopathic treatment and to the comfort, privacy and dignity of patients.
c.	The xxx must submit an Annual Report to the Education Committee of the General Council, the first such report being due no later than.....[date].

- *A broad wording suggested by the Department of Health that conflicts with previous advice (received during the last year) that conditions should be specific, with a date for completion*

The condition originally suggested by GOsC was 'The xxx must submit to the General Council, by 31 December 2010, a marketing plan for focused on ensuring an appropriate range, diversity and number of patients within the clinic so that the needs of students are met for the duration of the recognition of this qualification (until 31 July 2013). The marketing plan should include details of the patient numbers required. If the General Council finds cause for concern in any aspect of the marketing plan they may set a new date by which the xxx must submit a revised marketing plan for approval. The xxx must implement the marketing plan and report progress in each subsequent annual report submitted to the General Council up until the date of the next renewal of recognition review.'

This was to try to take account of previous DH advice that specific conditions should have dates in them. The DH responded as follows:

'The various annexes highlight concerns about the number of patients in the clinic. The marketing plan is focused on addressing this concern but it may be worth the GOsC considering whether you wish to have any additional powers to take action if the appropriate range, diversity and number of patients within the clinic is insufficient. Attached is a possible provision for your attention:

"The xxx must ensure that there is an appropriate range, diversity and number of patients within the clinic so that the needs of students are met for the duration of the recognition of this qualification. If the General Council have concerns that this requirement is not being met they may require xxx to submit an action plan for the General Council's approval and take any further steps required to monitor implementation of that action plan." DH, 23 December 2010

No date for completion has been suggested in this condition and it is not clear, therefore, if dates for completion should be submitted or not. This creates difficulties with determining appropriate conditions for the Education Committee and Council to agree in the first place.

Discussion

The delays in the GOsC Process

13. At the meeting on 1 March 2011, we proposed that decisions might be made electronically by our Council on the basis of a full and expert discussion in our Education Committee. The reasons for this include:
- The visit itself is undertaken on our behalf by the QAA with a pool of expert Visitors.
 - The QAA Visit co-ordinator presents the report to the Education Committee.
 - The expertise to make these decisions rests with the Education Committee. It comprises five Council members and four externally appointed members. All members were recruited against explicit competences.
 - The Council has confidence in the Education Committee and the processes that it employs having determined the Terms of Reference for the Committee and the Minutes of each meeting. The Council also receives an Annual Report from the Committee.
 - The Council sees both the Minutes of the Education Committee discussion as well as a detailed paper setting out the recommendations of the Education Committee in relation to recommendations to 'Recognise' Qualifications.

14. We would be reluctant to propose that the Education Committee meet electronically as this would be likely to materially affect the quality of the advice provided to the Council.
15. **However, in light of the safeguards in place as set out above, would the DH be prepared to sanction electronic agreement by the Council to streamline this part of the process more effectively?** As with all our electronic meetings, if one person asks for a discussion, a full discussion takes place at the next face to face meeting and no decision is taken electronically. In this way, we submit that there is no disadvantage to having electronic Council discussions on RQ decisions.

The delays in the Privy Council process

16. The Privy Council / DH lawyers have been inconsistent in the standards applying to RQs as illustrated above. The impact of this is:
- Further delay to the issue of RQs which is already a lengthy process. This affects what schools can say about the status of their qualifications which in turn could affect their commercial 'marketability'. We have received a complaint from xxx about this and a complaint from xxx has been lodged with the Privy Council.
 - Additional resources in terms of DH lawyers. The level of detail being suggested by DH lawyers makes no material difference to the quality of the education on offer or to the robustness of the condition. Please see the examples above at paragraph 12.
 - Additional resources in terms of the decisions required of our own Education Committee and Council members. Generally, the DH lawyers require evidence that changes to conditions have been agreed by our Education Committee and our Council pursuant to Section 14 of the Osteopaths Act 1993 and often with the OEI itself as well.
 - Currently we are awaiting approval for RQ Orders for the xxx (the visit took place in November 2009), the xxx (the visit took place in December 2009) and the xxx (the visit took place in March 2010).

Potential solutions and recommendations:

- a. Could the General Osteopathic Council authorise representatives of the GOsC legal and policy teams to negotiate face-to-face or by teleconference with representatives of the DH lawyers and policy teams to agree conditions?**

- b. Would it be possible to agree which minor amendments could be made without further reference to GOsC Education Committee and Council?**
- c. Could the DH agree a method for a clear agreement about what is required by DH lawyers to ensure that RQ's can be processed swiftly, for example a standard view on: Should conditions have an end date or not? Must conditions have an outcomes focus or not?**
- d. Can we develop a bank of standard conditions or wording incorporating the above?**
- e. Could the DH suggest any other solutions to streamline the process with DH lawyers?**

Extracts from Relevant parts of the Osteopaths Act 1993

- Section 14 (1) states – ‘... a qualification is a ‘recognised qualification’ if it is recognised by the General Council under this section.’
- Section 14(2) states – ‘ Where the General Council is satisfied that... It may, with the approval of the Privy Council, recognise that qualification for the purposes of the Act’.
- Section 14(7) states - ‘When requesting the approval of the Privy Council The General Council shall make available to it a. the information made available to the it by the Education Committee or b. ... a summary of that information.
- Section 14(8) states - ‘The Privy Council shall have regard to the information made available to it under (7) before deciding whether or not to give its approval’.
- Section 15(8) states that ‘Where an application is made by any institution for the recognition of a qualification under section 14, the General Council shall notify the institution of the result of its application as soon as it is reasonably practicable after the Council determines the application’.
- Section 16 deals ‘Withdrawal of recognition of a qualification’.
- Section 18 – deals with information to be given by institutions to the General Osteopathic Council.