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# briefing

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## New EU law on mobility of health professionals across Europe

### What this means for the NHS

#### Key points

- Agreement has been reached on a new EU law regulating how professionals who qualified in one EU member state can move to and practise in another.
- The NHS European Office has worked hard to ensure that in the drive to make it easier for professionals to move around Europe, safety and quality in healthcare are not compromised.
- Key achievements include a warning system for regulators, to inform each other when rogue practitioners move from one country to another, and agreement that language checks can be performed by regulatory bodies.

The NHS European Office has worked closely with the European Union institutions and other stakeholders for the last three years, ensuring the revision of the EU Directive on the Recognition of Professional Qualifications (Directive 2005/36/EC) secures the best possible improvements for the NHS. An EU agreement on the revised text was reached in summer 2013.

High-profile cases in the UK have highlighted concerns about the clinical competence and language skills of some healthcare professionals from other EU member states. The NHS European Office has consulted extensively with NHS organisations and channelled their views to EU decision-makers in order to influence the final text of this Directive, which sets out the rules and procedures that apply when professionals (including health professionals) want to practise in an EU country other than the one in which they qualified.

The revised Directive aims to remove barriers to freedom of movement within the European single market, but there is the potential for conflict between simplifying and speeding up procedures for professionals and improving safety, quality and transparency in the provision of healthcare services. Overall, we are pleased that significant improvements to the original proposals have been secured and are now focusing on the Directive's successful implementation in the NHS.



**'Professional registration does not remove the need for employers to ensure, as part of the recruitment process, that the applicant has the necessary skills and competences to perform the role for which they are applying'**

## The current situation

The free movement of European citizens to live and work within the European Union is one of the fundamental pillars of the European single market. Existing EU rules on professional mobility are contained in Directive 2005/36/EC on the recognition of professional qualifications ('the Directive').

Healthcare professionals who hold certain qualifications (doctors, dentists, nurses responsible for general care, midwives and pharmacists), and are currently registered with a regulatory body in one EU member state, can register to practise in any other member state without having to satisfy further tests or formalities under the Directive's 'automatic recognition' procedures.

Automatic recognition of qualifications under the Directive is about granting access to professional registration, not suitability to undertake a particular job. Professional registration does not remove the need for employers to ensure, as part of the recruitment process, that the applicant has the necessary skills and competences to perform the role for which they are applying.

## Revising Directive 2005/36/EC

The Directive covers many professions (for example, architects and engineers) and the aim of revision was to remove 'red tape' and make it easier for citizens to practise their profession across the European Union. However, it is important to have tougher safeguards for health professionals than for professionals working in other sectors, given the implications for patient safety.

The European Commission ('the Commission') launched a major consultation on the revision of the Directive in January 2011, leading to the publication in June 2011 of a green paper posing further, more specific questions on changes to be introduced to EU law. The NHS European Office sought views from NHS bodies and reflected them in our responses to both consultations.

On 19 December 2011, the Commission then issued a draft legislative proposal putting forward various changes to the current Directive. This proposal was considered and debated extensively in the European Parliament and Council during 2012 and 2013. The NHS European Office worked with the Commission, Members of the European Parliament and other organisations to influence amendments to the proposal, with the aim of securing the best possible outcome for the NHS.

Agreement on a revised text has now been reached and we expect

the decision-making process at European level to be concluded towards the end of this year. After this, the UK Government will have a maximum of two years to transpose the revised Directive into UK law and ensure its subsequent implementation.

## The main changes

For the NHS, the main changes introduced to the new Directive are:

### Language controls

- Regulators will be allowed to check language skills after recognition of qualifications but before granting access to the profession, where the profession to be practised has patient safety implications. Language controls by regulators will not replace checks by employers – employers also have an explicit role in ensuring that employees have the necessary language knowledge to perform their professional activities in the workplace.
- Regulatory bodies, professions, trade unions, educational bodies and employers will need to work together to develop workable procedures that implement the rules on language checks. We will contribute to these discussions.
- There is still a lack of clarity about what sort of language checks may apply to health professionals who go to another country to provide services on a 'temporary or occasional' basis, who could, however, be required to submit a declaration about their knowledge of languages necessary for practising in the 'host' member state.

## A safer NHS

Successful lobbying by the NHS European Office has resulted in:

- English language checks by regulators for European health professionals seeking professional registration in the UK – in future, all registrants will have to be able to communicate well in English
- employers can check language skills too, when recruiting for a particular job
- a warning system to guard against rogue professionals entering the UK from other EU countries
- only fully qualified European health professionals will be able to access UK professional registers
- new requirement for member states to encourage continuing professional development and report on progress
- the UK can continue to train doctors using shorter postgraduate courses. This will help train the new doctors – especially GPs – that we need.

## Warning system

- Regulators will have to proactively warn all other member states within three days when a health professional is banned from practising or their practice is restricted, even temporarily. This is a significant improvement on the current situation whereby they only have to react to requests for information from other regulators. As a result, rogue professionals can currently easily escape detection outside their own country.
- Details of the alert system procedures will be determined in due course by further implementing legislation proposed by the European Commission. We will continue to engage in this process to ensure the system works to safeguard patients.

## The 'professional card'

- The European Commission intends to introduce a 'professional card' (an electronic certificate) to speed up existing recognition procedures when a professional moves from one member state to another.

Their intention is for it to be introduced gradually, profession by profession. Before introducing it for a profession, the views of the profession concerned will be taken into account, and there should be an impact assessment. Its use by individuals will be voluntary. Timescales and deadlines for regulatory bodies that process applications for the professional card are set out in the new Directive.

- Details of the procedures involved (documentation required to obtain a card, copies and translations, and so on) will be determined by further implementing legislation proposed by the Commission. We will engage in this process to influence outcomes favourably on behalf of the NHS if the card is introduced for one or more health professions.
- Professionals providing services in another member state on a 'temporary and occasional' basis (instead of applying for permanent registration) will only have to make a declaration every 18 months (12 months

at present), and procedures can be accelerated using the professional card.

## Access to professional recognition, and continuing competence

- There will be no partial access to their profession for health professionals who benefit from automatic recognition, or for other professionals if there are public health or patient safety implications. This means they cannot join the register and exercise their activities within a limited scope of practice if they have been trained to do part, but not all, of the minimum training requirements for their profession. The European Office lobbied successfully for health professionals to be excluded from

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the 'partial access' provisions, which are a new feature of the revised Directive.

- Continuing professional development (CPD) should be actively encouraged by member states to ensure that health professions covered by the automatic recognition regime (doctors, nurses, midwives, dentists, pharmacists) are able to update their knowledge, skills and competences in order to maintain a safe and effective practice and keep abreast of professional developments. Member states should communicate to the Commission the measures they are taking. This is an important change from an NHS perspective, as the original EU Directive makes no mention of continuing competence.

### **Minimum training requirements for health professions benefiting from automatic recognition**

'Automatic recognition' in this context applies to EU citizens who hold a qualification as a doctor, dentist, nurse responsible for general care, midwife or pharmacist and whose qualification is listed in the appropriate annex to the Directive. If they are registered with a regulatory body in one member state they can register to practise in any other member state without having to satisfy further

tests or formalities under the Directive's 'automatic recognition' procedures.

The Directive specifies, for each profession, the minimum requirements for training, generally expressed in terms of duration (hours and/or years). These requirements have been altered in the text of the revised Directive. An innovation in the new Directive is that for all of the professions, the duration of training may now be expressed with the equivalent European Credit Transfer System (ECTS) credits. ECTS is a standard for comparing the study attainment and performance of higher education students across the EU and other collaborating European countries, with the aim of facilitating transfer and progression across borders. One successfully completed academic year corresponds to 60 ECTS credits – equivalent to 1,500-1,800 hours of study.

In addition, the Directive specifies the knowledge, skills and competences that the individual should have acquired as a result of their training. Some of these requirements have also been changed, and the Directive provides for progressive updating (for example, to reflect scientific progress and the evolution of professional practice) by empowering the European Commission to propose implementing legislation in future.

- **Doctors** – minimum training requirements have changed to five years and 5,500 hours (currently six years or 5,500 hours). We fought hard for this change, as there was a serious

danger that the requirement could be increased to six years – not five – and 5,500 hours, which would have threatened the continuance of UK postgraduate medical degrees comprising four years at university plus a clinical training year (Foundation Year 1).

- **Specialist doctors** – regulatory bodies can take prior qualifications into account and grant exemptions amounting to not more than half the total length of specialist training. New specialties may be added to the list of specialties which can be automatically recognised if they exist in at least two-fifths of member states (in the old Directive, two-thirds). This should make it easier and less bureaucratic for specialists to move from one country to another, and may help to fill shortages.
- **Nurses** – future minimum training requirements will be three years and (previously or) 4,600 hours, and should be preceded by 12 years' general education for degree level courses or ten years for vocational training courses, to take account of different national training systems. The competences required from nurses have been updated to include recognition of nurses' autonomous role in independently diagnosing, planning, implementing and organising nursing care, as well as assuring and evaluating its quality.
- **Midwives** – requirements for midwives who have not previously trained as nurses will be three years and 4,600 hours, including one-third clinical

**'The NHS European Office will engage with Health Education England, NHS employers, the professions and unions to influence the shape of future European legislation on minimum educational requirements for health professionals'**

training (previously just three years). There is a requirement for 12 years' general education before accessing training (an increase from the current ten), except where the person has previously qualified as a general care nurse. The competences required of midwives have also been updated to include recognition of midwives' autonomy in managing antenatal, intrapartum and postnatal care (though there is some ambiguity about the tasks they can perform 'while awaiting a medical practitioner').

- **Dentists** – requirements will increase to five years and 5,000 hours (currently five years only).
- **Pharmacists** – requirements remain at five years' training, including traineeship in a pharmacy for six months (the new text adds 'during or at the end of the theoretical and practical training').

#### **Minimum training requirements**

- The minimum training requirements (knowledge, skills and competences required) for the automatically recognised health professions can in future

be progressively updated without having to revise the whole Directive, by the use of 'delegated acts' proposed by the European Commission. The Commission will consult relevant stakeholders when proposing these changes, which have to be passed by a vote in the Council of Ministers and the European Parliament. The NHS European Office will influence this process on behalf of Health Education England and NHS employing organisations, with a focus on raising outcome-based standards (competences).

- Common training frameworks setting minimum education and training criteria can be agreed in future for professions that do not currently benefit from automatic recognition, such as podiatrists or physiotherapists, or for medical or nursing specialties that do not currently benefit from automatic recognition.

#### **Next steps**

The NHS European Office will continue working in the UK and Brussels to ensure that implementation of the new Directive works smoothly for the NHS. The UK Government must transpose the Directive into UK law within two years, which will entail many changes to existing legislation regulating the different health professions, such as the Medical Act.

The Directive provides the legislative framework for professional mobility across Europe, but the European

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Commission will need to develop further implementing and delegated legislation to put flesh on the bones.

We will engage with the professions, Health Education England, NHS employers and other stakeholders to influence the delegated acts which will be needed to update the minimum educational requirements for professions benefiting from automatic recognition. We will also consult and involve colleagues in the NHS in shaping our input to the implementing acts that will spell out detailed procedures, for example the operation of the alert mechanism and the documentation needed for the professional card.

#### **Further information**

We welcome your views and comments. For additional information or to download a copy of the agreed text of the new Directive, please see [www.nhsemployers.org/MRPQ](http://www.nhsemployers.org/MRPQ). If you would like to discuss any of the issues covered in this *Briefing*, please contact [kate.ling@nhsconfed.org](mailto:kate.ling@nhsconfed.org)



## The NHS European Office

The NHS European Office has been established to represent NHS organisations in England to EU decision-makers. The office is part of the NHS Confederation. EU policy and legislation have an increasing impact on the NHS as a provider and commissioner of healthcare, as a business and as a major employer in the EU. Our work includes:

- monitoring EU developments which have an impact on the NHS
- informing NHS organisations of EU affairs
- promoting the priorities and interests of the NHS to European institutions
- advising NHS organisations of EU funding opportunities.

To find out more about us, and how you can engage in our work to represent the NHS in Europe, visit [www.nhsconfed.org/europe](http://www.nhsconfed.org/europe) or contact [european.office@nhsconfed.org](mailto:european.office@nhsconfed.org)

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