

**By e-mail**

DG Internal Market and Services  
Unit E-4 "Free movement of professionals"

20 September 2011

**Consultation on Modernising the Professional Qualifications Directive**

Dear Sir/Madam

The General Optical Council (GOC) of the United Kingdom welcomes the opportunity to comment on the European Commission Green Paper on Modernising the Professional Qualifications Directive.

The GOC is one of 13 organisations in the UK known as health and social care regulators. These organisations oversee the health and social care professions by regulating individual professionals. We are the regulator for the optical professions in the UK. The Council currently registers around 24,000 optometrists, dispensing opticians, student opticians and optical businesses.

The following is the GOC's response to the issues raised in the Green Paper.

**Question 1:** Do you have any comments on the respective roles of the competent authorities in the Member State of departure and the receiving Member State?

**Question 2:** Do you agree that a professional card could have the following effects, depending on the card holder's objectives?

a) The card holder moves on a temporary basis (temporary mobility):

- Option 1: the card would make any declaration which Member States can currently require under Article 7 of the Directive redundant.

- Option 2: the declaration regime is maintained but the card could be presented in place of any accompanying documents.

b) The card holder seeks automatic recognition of his qualifications: presentation of the card would accelerate the recognition procedure (receiving Member State should take a decision within two weeks instead of three months).

c) The card holder seeks recognition of his qualifications which are not subject to automatic recognition (the general system): presentation of the card would accelerate the recognition procedure (receiving Member State would have to take a decision within one month instead of four months).

In principle, we are supportive of the objective of mobilising the Member State of departure to a greater degree in the mobility of professionals. We have reservations, however, about the reliability and effectiveness of the proposed professional card in this area.

We are not clear as to how the proposed professional card would be intended to operate, and we have concerns about possible fraud unless the card is linked to an electronic database or supported by some other form of information exchange. We are also unclear of the mechanism by which the card would be intended to speed the process for those seeking recognition of qualifications under the general system - while the card might potentially assist in the area of clarifying right to apply and identity, it would not easily address issues regarding the detailed content of the qualifications gained.

In optometry and optics, the content of training often differs markedly around Europe, and analysis the content of a professional's qualifications can be very complex, often requiring compensation measures to be applied. It is not clear to us in what way a professional card could easily replace the detailed information on training content that is currently required to make an assessment of their competence in relation to UK standards.

This being the case, we are unclear of the extent to which the card can add value to current processes, since information exchange will still be required between competent authorities regardless of whether or not the professional presents a card. We believe that it may be more effective for resources to be dedicated to improving existing systems and requirements for information exchange among competent authorities, in particular the Internal Market Information System (IMI). We would not favour the abolition of the declaration regime for those moving on a temporary basis.

**Question 3:** Do you agree that there would be important advantages to inserting the principle of partial access and specific criteria for its application into the Directive? (Please provide specific reasons for any derogation from the principle.)

We can see some possible benefit from the principle of partial access's application under the Directive, at least in relation to the general system of recognition. There are areas in the optical professions where successfully applying a partial access could potentially facilitate the mobility of professions, because definitions and scope of practise of the optical professions are very different around Europe. In parts of Europe, optometry is treated as a medical procedure, meaning that UK optometrists are currently prevented from practising in those countries without retraining as medical doctors.

We would note, however, that implementing partial access could be very complex administratively, would likely require changes to legislation and/or regulations, and may create risks if poorly implemented. For these reason, we would prefer a cautious approach to be taken to any timetables around implementing this approach. It may be preferable to instead focus on development of more harmonised approaches across professions.

**Question 4:** Do you support lowering the current threshold of two-thirds of the Member States to one-third (i.e. nine out of twenty seven Member States) as a condition for the creation of a common platform? Do you agree on the need for an Internal Market test (based on the proportionality principle) to ensure a common platform does not constitute a barrier for service providers from non-participating Member States? (Please give specific arguments for or against this approach.)

We are supportive of the principle of common platforms, and would be supportive of measures to promote their development. However, while we can see the argument for lowering the two thirds threshold we believe that there would be a danger, due to the very different approaches taken to the definition and regulation of optics across Europe, that common platforms would develop that would represent only a partial view of the professions. We are particularly wary of the potential for a common platform to develop that would represent a significant compromise in our standards, and in that situation we would not be able to participate in the common platform. We consider that a focus on raising and harmonising standards across Europe is preferable, and are supportive of the work currently going on in the sector in this area.

**Question 5:** Do you know any regulated professions where EU citizens might effectively face such situations? Please explain the profession, the qualifications and for which reasons these situations would not be justifiable.

In much of Europe, much of the profession of optometry (in relation to sight testing) is regarded as a medical act. This means that UK-qualified optometrists are unable to practise in their field in these parts of Europe (and instead are limited to the dispensing of spectacles).

**Question 6:** Would you support an obligation for Member States to ensure that information on the competent authorities and the required documents for the recognition of professional qualifications is available through a central on line access point in each Member State? Would you support an obligation to enable online completion of recognition procedures for all professionals? (Please give specific arguments for or against this approach).

We are broadly supportive of requiring Member States to ensure that sufficient information and documentation is available online. We do not, however, support an obligation for that information to be fully centralised, especially if the central access portal is to have any role in the application process. This would seem to add an unnecessary and potentially confusing layer of administration to the process.

While we believe that allowing completion of recognition procedures online is a desirable objective, we have some reservations about how quickly this would be able to be achieved for some competent authorities.

**Question 7:** Do you agree that the requirement of two years' professional experience in the case of a professional coming from a non-regulating Member State should be lifted in case of consumers crossing borders and not choosing a local professional in the host Member State? Should the host Member State still be entitled to require a prior declaration in this case? (Please give specific arguments for or against this approach.)

This scenario is not directly relevant to the optical professions, however we believe that whether a professional is in the country temporarily or permanently should not affect the healthcare of the person being treated. We would be wary of any further reduction in the ability of regulators to ensure the competence of those who might be practising temporarily.

**Question 8:** Do you agree that the notion of "regulated education and training" could encompass all training recognised by a Member State which is relevant to a profession and not only the training which is explicitly geared towards a specific profession? (Please give specific arguments for or against this approach.)

We do not support this proposal. We believe that it is important for public safety that training in the profession be specifically targeted to the needs of the profession. Attempting to assess training from a variety of different fields against the requirements of training in optometry and optics would be extremely complex to administer, and it would be impossible to have any confidence that the professional was fully competent in any area under that approach.

**Question 9:** Would you support the deletion of the classification outlined in Article 11 (including Annex II)? (Please give specific arguments for or against this approach).

**Question 10:** If Article 11 of the Directive is deleted, should the four steps outlined above be implemented in a modernised Directive? If you do not support the implementation of all four steps, would any of them be acceptable to you? (Please give specific arguments for or against all or each of the steps.)

We are broadly supportive of the proposal for the simplification of the regime, and would not be opposed to the deletion of the classification, and we would support the four steps outlined in the Green Paper, if Article 11 were to be deleted.

Our current approach to assessing competence is already focused on an assessment of the outcomes of an individual's training, so in the interests of simplicity we have no objection to the removal of the classification. However we believe that more detail is necessary on the alternative approach. It is important that competent authorities compare education levels on a similar basis.

**Question 11:** Would you support extending the benefits of the Directive to graduates from academic training who wish to complete a period of remunerated supervised practical experience in the profession abroad? (Please give specific arguments for or against this approach.)

We have no objection to this proposal, in principle. We consider that a professional should be able to complete their training abroad, if they wish. We would note, however, that the proposal would not be straightforward to administer, and there may be some risks of less competent students 'shopping around' Europe for less rigorous assessment approaches to complete their training. If this were to occur, there may be some risks for patient safety posed by less competent professionals being able to work unrestricted. For this proposal to work successful there would be a need for education around Europe to be broadly comparable at the same level - this is not currently the case for the optical professions.

**Question 12:** Which of the two options for the introduction of an alert mechanism for health professionals within the IMI system do you prefer?

Option 1: Extending the alert mechanism as foreseen under the Services Directive to all professionals, including health professionals? The initiating Member State would decide to which other Member States the alert should be addressed.)

Option 2: Introducing the wider and more rigorous alert obligation for Member States to immediately alert all other Member States if a health professional is no longer allowed to practise due to a disciplinary sanction? The initiating Member State would be obliged to address each alert to all other Member States.)

We would support Option 2, in consideration of the specific risks to patient safety posed by health professionals. We fully support the inclusion of an alert mechanism and a legal obligation on regulators to inform other regulators when an optician is no longer considered fit to practise.

**Question 13:** Which of the two options outlines above do you prefer?

Option 1: Clarifying the existing rules in the Code of Conduct;

Option 2: Amending the Directive itself with regard to health professionals having direct contact with patients and benefiting from automatic recognition.

We support Option 2. We do not believe that clarifying the Code of Conduct would be an appropriate means of addressing this issue. We do believe, however, that in principle a health professional should be required to have a working knowledge of the language of the country they are practising in, regardless of whether they benefit from automatic recognition or come under the general system.

While the general system does provide an opportunity to ensure that the health professional is competent in all areas of practise, including language,

we believe that it is important that the general principle of the importance of language competence is clear. Submitting an application in the language of the host member state does not guarantee the language competence of the applicant. It is also important that regulators have the opportunity to test language where necessary at the point of registration, rather than relying on employers to ensure that the professional has an appropriate level of competence. In the optical professions, many professionals may be self-employed, or may act as locums - in these cases the regulator should be in the best position to ensure that the practitioner is fully fit to practise before they have the opportunity to work with patients.

**Question 24:** Do you consider it necessary to make adjustments to the treatment of EU citizens holding third country qualifications under the Directive, for example by reducing the three year rule in Article 3. Would you welcome such adjustment for third country nationals, including those falling under the European Neighbourhood Policy who benefit from an equal treatment clause under relevant European legislation?

We do not believe that the proposed adjustments are necessary or desirable. We do not have confidence in the applicability of the qualifications held by non-EEA nationals in a UK context, and would not support any simplification of the current regime that would undermine our ability to check the fitness to practise of international graduates. Reducing the three year rule would increase opportunities for attempts to circumvent UK entry requirements.

We have no comment on questions 14-23, as they relate to automatic recognition.

Yours faithfully

Matthew Tait  
**Policy Manager**  
mtait@optical.org