Section 18 – Temporary and Occasional Registration

Working with doctors Working for patients
Section 18 (and Schedule 2A) of the Medical Act is a route to temporary and occasional registration for visiting doctors from EEA member states.

- It is a requirement of the Recognition of Professional Qualifications Directive (2005/36/EC)

- Directive aims to facilitate the free provision of services (giving EEA nationals the right to practise their profession in another member state to the one in which they qualified).

- Title II provides an entitlement for doctors established in another member state to be able to provide temporary and occasional (T&O) services in UK.
Context and current process

- 18 doctors currently registered under Section 18
- No information publically available on GMC website about route
- No definition of ‘temporary and occasional’ or ‘establishment’, and BIS/DH not intending to define
- Paper application process, asks for more than Directive specifies
- No application fee or annual retention fee
- No revalidation

Annex A provides further information on our current process for registering doctors under Section 18, and demonstrates how this compares with the requirements of the Directive, and how it compares against the amended Directive due to be implemented by January 2016.
To be eligible for T&O registration doctors must:

- Provide a declaration of their intention to provide T&O services.

- Be considered by the GMC to be intending to provide services on both a temporary and occasional basis.

- Be established in another EEA member state (but don’t have to currently be practising there).

- Be physically in the UK when providing services.

Directive specifies that our requirements for Section 18 should not lead to a disproportionate burden on doctors, and should not hinder, or render less attractive, the exercise of the freedom to provide services.
Examples of doctors registered under Section 18

Some examples of the kinds of practice doctors have undertaken while holding temporary and occasional registration (under Section 18) include:

- Acting as the doctor for a non-UK sports teams whilst playing in matches/tournaments in the UK (*)
- Providing demonstrations/teaching to UK medical students and trainees
- Performing a specific operation or procedure as a one-off occurrence (#)
- Training – visiting UK to train in a specific procedure
Why are we reviewing our approach to Section 18?

- On registration we ask for more information than is specified in the Directive.
- We need to amend our process to comply with the amendments to the Directive (2013/55/EU) due for implementation by January 2016, particularly:
  - Creation of an online application
  - Requests for a declaration of language competence
- We want to be more open and transparent about options available to European doctors seeking to work in the UK.
- Additionally, the likely future introduction of the European Professional Card (EPC) will increase the visibility and accessibility of this route. Current proposals also suggest that the decision to issue an EPC entitling doctors to provide temporary and occasional services would be made by the member state of establishment, rather than us.
Areas project will address

To ensure that the aims of the project comply as far as possible with the Directive whilst ensuring that we have a robust process in place, we will:

- Create an online application
- Refine the information we request in application and at the point of renewal
- Consider how we can monitor that these doctors only provide services on a temporary and occasional basis
- Produce guidance for doctors and employers on the process and the limits of this type of registration
What are we asking the Board to consider?

We think there are some risks which we would like the Board to be aware of.

- We currently request more information than the Directive specifies.
- We want to continue to do so, in order to minimise the risk of harm to patients from doctors registering under this provision.
- This carries a risk that our approach to temporary and occasional registration could be challenged.
Questions for the Board

As outlined in the following slides there are some inconsistencies between our processes and the provisions of the Directive.

To inform the direction of this project we are asking the Board to consider whether we should accept a risk of challenge by continuing to:

- request information about the intended place, date, and duration of the services the doctor intends to provided in the UK, despite the User Guide’s restriction of this?
- require doctors applying under Section 18 to attend an identity check, and present original documents, at the GMC before being granted Registration?
Monitoring of doctor’s provision of services

We have limited provisions for monitoring whether doctors registered under Section 18 are providing services on a temporary and occasional basis.

- Doctors are exempt from revalidation
- Doctors are required to renew their registration every 12 months
  - Only need to provide limited information
  - Our current process exceeds Directive requirements
  - We intend to continue with our existing process
- We can request further information if we have a justified doubt about their provision of services

We intend to explore other information available to help us monitor these doctors.
We ask for this in initial and renewal applications.

User Guide to Directive prohibits asking doctors to specify place/date/duration of services.

The new Directive does not change this position.

However the draft BIS guidance states that:

- *Competent authorities may review and monitor cases periodically to assess whether or not the service provision is genuinely temporary and occasional - and may contact service providers as part of their monitoring role to ask for further details, e.g. employment status or details of work undertaking, but the manner in which this is done has to be limited...*

- *A formal requirement to inform the competent authority of any changes during the year cannot be imposed on the service provider. However, as part of the monitoring role this does not prohibit the competent authority reaffirming aspects with the home r [sic] State competent authority contacting the authority periodically during the year for any information.*
We plan to follow BIS guidance which provides a more generous interpretation of the Directive:

- BIS template application form includes a request for information on the professional activities for which the doctor will be providing services on a temporary and occasional basis
- BIS guidance specifies that monitoring the temporary and occasional provision of services by contacting doctors to ask about the work they are undertaking is not prohibited.

Are SPB content to endorse this position?
ID checks and provision of original documents

We require all EU nationals (whether applying for full or T&O registration) to attend an identity check and provide original documents before we grant registration.

- These are anti-fraud and security measures.
- They enable us to fulfil our statutory duty to protect patients.

Current draft BIS guidance states: “Requiring original or authenticated documents is considered disproportionate”.

The Directive states that requirements and formalities relating to matters covered by the Directive (eg the recognition of professional qualifications and free provision of services) must be easily completed, remotely and by electronic means.
ID checks and provision of original documents #2

Risks:
- Legal advice suggests requiring ID checks and original documents could be challenged as disproportionate and contrary to EU law

Mitigation:
- Legal advice also highlights that these checks are a part of our registration process (a statutory function), rather than relating to matters of the Directive.
- We have never been challenged on these security requirements of our registration process.

Are SPB content that we have adequately mitigated the risk of successful challenge to our procedures?
Issues: List of Registered Medical Practitioners

Doctor Details

Currently T&O status is listed under a secondary ‘information for employers’ page.

- Whilst this is clear for employers, the restrictions around this type of registration are not immediately apparent for the public.
- This may become a greater risk in future as the number of doctors registered under Section 18 increases.
- We have some ideas about how we could improve this information.
Questions for the Board

As outlined in this presentation there are some inconsistencies between our processes and the provisions of the Directive.

To inform the direction of this project we are asking the Board to consider whether we should accept a risk of challenge by continuing to:

- request information about the intended place, date, and duration of the services the doctor intends to provided in the UK, despite the User Guide’s restriction of this?

- require doctors applying under Section 18 to attend an identity check, and present original documents, at the GMC before being granted Registration?
## 5 - Section 18: Temporary and Occasional Registration

### Annex A

<table>
<thead>
<tr>
<th>What does our current process require?</th>
<th>Is this permissible under the current Directive (2005/36/EC)?</th>
<th>What additional powers or requirements does the amended Directive (2013/55/EU) introduce?</th>
<th>Do we plan to require this from January 2016?</th>
</tr>
</thead>
<tbody>
<tr>
<td>What does our current process require?</td>
<td>✗</td>
<td></td>
<td>✗</td>
</tr>
<tr>
<td>Online application</td>
<td>✗</td>
<td><em>Article 57a requires that: all requirements, procedures and formalities relating to matters covered by this Directive may be easily completed, remotely and by electronic means.</em></td>
<td>✗</td>
</tr>
<tr>
<td>Personal/contact details</td>
<td>✔</td>
<td>User Guide specifies that we can request contact details.</td>
<td>✔</td>
</tr>
<tr>
<td>Declaration of intention to provide T&amp;O services</td>
<td>✔</td>
<td>Article 7(1) allows us to require a declaration of the doctor’s intention to provide temporary and occasional services</td>
<td>✔</td>
</tr>
<tr>
<td>Primary medical, and GP/Specialist qualification</td>
<td>✔</td>
<td>Article 7(2)(c) allows us to require ‘evidence of professional qualifications’.</td>
<td>✔</td>
</tr>
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<tr>
<td>Details of medical services to be provided in UK</td>
<td>✓ User Guide prohibits asking doctors to specify place, date, duration of service.</td>
<td>Draft BIS guidance states that we can ‘review and monitor cases periodically to assess whether or not the service provision is genuinely temporary and occasional’. This can include contacting doctors for further details, but not imposing a requirement to inform us of changes during the year.</td>
<td>✓</td>
</tr>
<tr>
<td>Standard GMC fitness to Practise declaration (including health questions)</td>
<td>✓ Article 7(2)(b) allows us to require an attestation that the doctor is not ‘prohibited from practising, even temporarily, at the moment of delivering the attestation’.</td>
<td>Article 7(2)(e) allows us to require an attestation confirming absence of regulatory suspensions and criminal convictions. Introduction of alert mechanism, Article 56a, should assist in identifying concerns.</td>
<td>✓</td>
</tr>
<tr>
<td>Insurance and Indemnity</td>
<td>✓ Article 7(1) allows us to require, ‘details of insurance cover or other means of personal or collective protection with regard to professional liability’</td>
<td>No change.</td>
<td>✓</td>
</tr>
<tr>
<td>Certificate from another competent authority</td>
<td>✓ Article 7(2)(b) allows us to require an attestation that the doctor is ‘legally established in a member state for the purposes of pursuing the activities concerned, and that he is not prohibited from practising, even temporarily, at the moment of delivering the attestation’.</td>
<td>Article 7(2)(e) allows us to require an attestation confirming absence of regulatory suspensions and criminal convictions. Introduction of the alert mechanism, Article 56a, should assist in identification of concerns, and of instances where the doctor is no longer established in another member state.</td>
<td>✓</td>
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<td>Knowledge of English Language</td>
<td>Article 53 indicated that professionals were required to have the necessary knowledge of language, but we had no express powers to request evidence of knowledge from doctors with temporary and occasional registration.</td>
<td>Where a profession has ‘patient safety implications’, Article 7(2)(f) of the amended Directive allows, ‘a declaration about the applicant’s knowledge of the language necessary for practising the profession’ to be required. Amendments to Article 53 appear to clarify that systematic controls are allowed in professions with patient safety implications.</td>
<td>☑</td>
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<tr>
<td>Ethnicity</td>
<td>✓ Information is not mandatory.</td>
<td>No change.</td>
<td>☑</td>
</tr>
<tr>
<td>Fee</td>
<td>✗ Directive specifies Registration must not entail any additional costs.</td>
<td>No change.</td>
<td>✗</td>
</tr>
<tr>
<td>Nationality</td>
<td>✗ Article 7(2)(a) and entitles us to request proof of nationality, however we gather this through the identity check process instead.</td>
<td>No change.</td>
<td>✗</td>
</tr>
<tr>
<td>ID check</td>
<td>✓ N/A</td>
<td>Directive Article 57a insists that: <em>all requirements, procedures and formalities…may be easily completed, remotely and by electronic means</em>.</td>
<td>☑</td>
</tr>
<tr>
<td>Original documents</td>
<td>✓ User Guide prohibits requiring original documents.</td>
<td>Draft BIS guidance states: “<em>Requiring original or authenticated documents is considered disproportionate</em>.” Article 57a specifies that we are not prevented <em>from requesting certified copies at a later stage in the event of justified doubts and where strictly necessary</em>.</td>
<td>☑</td>
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