To note

Section 14 of the Medical Act 1983 (as amended)

Issue

1 Under Section 3 of the Medical Act 1983 (as amended) (‘the Act’), which is entitled ‘Registration by virtue of primary United Kingdom or primary European qualifications’, holders of a UK Primary Medical Qualification are eligible to apply for full registration if they can demonstrate that they have successfully completed the first year of the UK Foundation Programme (F1). Section 14 of the Act, which deals with ‘alternative requirements as to experience in certain cases’, allows us to consider alternative evidence to completion of F1 in applications under Section 3. As such UK medical graduates who have undertaken further training and clinical practice outside the UK as an alternative to F1 may be eligible to apply for full registration under Section 3.

2 The power to consider alternative evidence under Section 14 was historically reserved by Council. In May 2014 the Strategy and Policy Board agreed, on email circulation, that we should invite Council to approve a proposed amendment to the Schedule of Authority in the GMC Governance Handbook. The amendment would delegate the exercise of powers under Section 14 of the Act from Council to the Registrar. Subsequently, at its meeting on 21 May 2014, Council approved our request and delegated its powers under Section 14 to the Registrar.

3 At that time, the Board agreed that we should seek Council’s agreement on the understanding that we would create a policy framework to govern the exercise of powers under Section 14, and update the Board on this work at a later meeting. This paper provides an update to the Board on our work to create a policy framework for Section 14 that has been undertaken since May 2014.

Recommendation

4 The Strategy and Policy Board is asked to note the work that has been undertaken to develop a policy framework governing the use of Section 14, since Council delegated its powers under Section 14 to the Registrar in May 2014.
Section 14 of the Medical Act 1983 (as amended)

Issue

Background: why was delegation necessary?

5 Prior to Council’s delegation of its powers under Section 14 to the Registrar, UK medical graduates applying for full registration under Section 3 of the Act were only eligible to apply for full registration if they could demonstrate that they had successfully completed F1 in the form of an appropriately completed Certificate of Experience (COE).

6 In early 2014 we received several applications from UK medical graduates who had left the UK after being awarded valid UK primary medical qualifications (PMQs) without intending to return, choosing to undertake further training and clinical practice overseas rather than completing F1. They did not obtain the prior approval of their medical school for their overseas training and so, whilst they were entitled to provisional registration, they could not satisfy the requirements for full registration set out in Section 3.

7 Each of these UK graduates had applied for full registration in order to take up offers of UK training fellowships. As they could not obtain full registration they could not take up these offers, and so they were placed at a distinct disadvantage to other UK graduates (and equally to equivalent doctors who qualified outside the UK).

8 Prior to ceasing its work in 2009 the Registration Committee had used Section 14 of the Act, which deals with ‘alternative requirements as to experience in certain cases’, to allow us to consider alternative evidence to completion of the F1 programme in applications under Section 3. It does not appear that we considered any applications for full registration including evidence provided for the purposes of Section 14 between 2009 and 2014.

9 After obtaining legal advice on the provisions of Section 14 in early 2014 we concluded that it may be appropriate for us to consider such alternative evidence in respect of the particular applicants referenced in paragraphs 6 and 7.

10 We highlighted these considerations to Council at its meeting on 21 May 2014. Consequently, Council agreed to delegate its powers under Section 14 to the Registrar. Following delegation we granted several applications for full registration under Section 3 after considering alternative evidence in accordance with the provisions of Section 14.
The policy framework for Section 14

11 As outlined to Council in May 2014, the development of this policy framework has been based on the assumption that the consideration of alternative evidence under Section 14 is a strictly defined and controlled exception to prevent a system imbalance, and is not generally available as a way of submitting evidence. It remains our clear position that UK graduates should either enter the UK Foundation Programme or obtain prior approval from their medical school to obtain overseas experience which has been approved by the GMC.

12 The high-level principles of our policy position on Section 14 are set out in guidance for Assistant Registrars (ARs) (at Annex A). The purpose of the guidance is to support ARs in making decisions about whether applicants possess, as set out in Section 14:

‘a foundation for future practice as a fully registered medical practitioner which is at least as good as the foundation provided by an acceptable programme for provisionally registered doctors.’

13 As such, the guidance sets out what ARs should consider in order to assure themselves that UK graduates applying for full registration under Section 3 have a foundation for practice that is at least as good as successful completion of F1, where they seek to demonstrate this on the basis of non-UK qualifications and experience.

14 To reach these decisions the guidance asks ARs to consider the following factors on a case-by-case basis for each applicant:

a Whether the applicant holds both a valid UK PMQ and a non-UK qualification that provides a sufficient guarantee that their knowledge and skill is equivalent to that of doctors who have successfully completed F1.

b Whether the applicant’s evidence demonstrates that they have a level of medical training and experience that is at least as good as that we would expect of doctors who have successfully completed F1.

c Whether the applicant’s evidence is objective, robust and independent and has been primary source verified as far as is possible.

d If there is evidence to suggest that the applicant has previously been below the standards expected at the successful completion of F1, whether they have remediated or gained outstanding experience in the relevant areas (for example, an applicant dropped out of the F1 programme part way through or had completed the F1 year ‘unsatisfactorily’).

15 In developing the guidance we tested our approach with colleagues from operational teams in Registration, the In-House Legal Team and the Education and Standards Directorate. The framework reflects and incorporates their expertise.
Equality and Diversity considerations

16 As paragraphs 5-7 show, the delegation of Section 14 was a measure taken to correct an existing imbalance in the way that UK medical graduates could demonstrate eligibility for full registration as opposed to European Economic Area and International Medical Graduate applicants. Nevertheless, in the course of our policy development work we have reflected on the equality and diversity considerations raised by the impact that Section 14 may have on applications for full registration from UK medical graduates.

17 In developing our framework for Section 14 we considered the circumstances of applicants who may be eligible for Section 14 and the context in which they may apply for full registration having not completed F1. We identified that personal circumstances were likely to be a factor for these applicants, potentially influencing their initial decision not to complete F1 or their decision to apply for full registration after having obtained non-UK experience. Examples of these circumstances may include family circumstances, visa restrictions or expiry, or considerations related to an applicant’s health, disability, maternity or pregnancy.

18 However, to date we have not identified any particular adverse impacts that have been created by the policy framework in regards to applicants with particular protected characteristics. In part this is because so far, only a very small number of applications have involved the consideration of alternative evidence under Section 14. This is not a sufficiently robust evidence base on which to draw firm conclusions about the impact of the framework in equality and diversity terms. The small number of applications to date also means that at present, we cannot conclude whether our policy framework will have an unfair adverse impact on applicants with particular protected characteristics in the future.

19 As such we will need to reflect on our experience of operating the policy framework, to ascertain whether UK graduates who undertake alternatives to F1 are more likely to share particular protected characteristics. Given the small number of applications that have involved Section 14 evidence to date, we may wish to conduct these reviews periodically as opposed to undertaking a single review at the end of, for example, the peak period for applications in 2015.

Reviewing the policy framework for Section 14

20 We do not anticipate that Section 14 requires any further fundamental policy development at this point, and registration colleagues are now implementing the guidance and processes described above. However, in order to implement the revised European Directive on the Recognition of Professional Qualifications, the Department of Health has proposed a series of amendments to the Act including an addition to Section 14. Should these amendments be confirmed, we will consider their impact on the policy framework for Section 14 as part of the separate ongoing project to implement the requirements of the revised Directive. In doing so we will also
recognise and take account of any further experience we have gained, in terms of applications that trigger the consideration of evidence provided under Section 14.

21 Regardless of the potential changes to the Act we will review the operation of the new framework for Section 14 on a regular basis and at least annually.
Supporting information

How this issue relates to the corporate strategy and business plan

22 This issue supports strategic aim five: to work better together to improve our overall effectiveness, our responsiveness, and the delivery of our regulatory functions.

How the issues support the principles of better regulation

23 Our policy framework for Section 14 is a targeted response to the previous barrier to some UK medical graduates obtaining full registration in the UK, despite them having obtained a foundation for future practice outside the UK that is equal or greater than that expected of doctors at the successful completion of F1.

24 Within our guidance for ARs, the factors for ARs to consider have been designed to be as clear and precise as possible without fettering their discretion. As summarised in paragraph 13 these factors should help to ensure that Section 14 is used proportionately in response to a limited number of exceptional circumstances.

What engagement approach has been used to inform the work (and what further communication and engagement is needed)

25 The need to develop a policy framework for Section 14 was agreed as a result of our correspondence with external parties; however, our engagement approach has been internally focused to ensure that our policy approach is operationally appropriate and not unduly complex or burdensome.

26 At present we do not think it is proportionate to undertake a proactive external engagement exercise on Section 14. We expect that Section 14 will only be appropriate in respect of a very small number of applications for full registration under Section 3. It would, therefore, be unfair to raise the expectations of UK medical graduates and medical schools around the likelihood of obtaining full registration, where a UK graduate gains overseas experience without the approval of their medical school or the GMC.

27 The UK applications team actively emphasise to UK medical students, prior to the award of their PMQ, that they must obtain prior approval from their medical school to obtain overseas experience approved by the GMC in the event that they do not enter the UK Foundation Programme.

If you have any questions about this paper please contact: Jane Durkin; Assistant Director, Registration; jdurkin@gmc-uk.org; 0161 923 6685.
Guidance for assessing alternative evidence of experience under Section 14 of the Medical Act

1 This annex includes our guidance for registration decision makers, on assessing alternative evidence of experience under section 14 of the Medical Act. The guidance encapsulates the core principles of the policy framework that we have developed since May 2014 to govern the use of Section 14 in practice.

Guidance for assessing alternative evidence of experience under Section 14 of the Medical Act

Introduction

1 This guidance is for decision makers within the Registration and Revalidation directorate who are asked to consider whether evidence submitted under Section 14 of the Medical Act (‘the Act’) confirms that an applicant is eligible to apply for full registration (FR) under Section 3. The guidance outlines the principles and factors for decision makers to consider, to bring consistency, fairness and proportionality to our approach to assessing evidence provided for the purposes of Section 14.

2 Decisions made under Section 14 are not about whether to grant registration; registration decisions should be made in accordance with the existing guidance for decision makers on applications for full registration under Section 3. Further information about the requirements of Section 14 is provided in the UK team triage checklist for Section 3 applications with evidence under Section 14.

3 The decision about the acceptability of the evidence provided under Section 14 will lead to one of two outcomes:
If the evidence is considered acceptable for the purposes of Section 14, the complete application for FR under Section 3 should then be assessed. This will require a second, separate decision – whether the applicant is eligible for FR under Section 3.

If the evidence is not considered acceptable for the purposes of Section 14, the applicant could not be eligible for FR under Section 3. The application is therefore closed and not examined further, and the applicant is advised to apply for provisional registration under Section 15.

Decisions on the acceptability of alternative evidence under Section 14 cannot be appealed as they do not determine whether an applicant should be granted registration.

In making your decision about the evidence provided under Section 14, you should consider the factors outlined in this guidance. You will need to decide whether the evidence demonstrates that the applicant has the necessary knowledge, skills and experience required for full registration under Section 3.

The evidence submitted and decision reached will be recorded on an Assistant Registrars decisions spread sheet for the applications teams to refer to.

Useful links:
- [Section 14 of the Medical Act](#)
- [Section 55 of the Medical Act (definition of a qualification)](#)
- [Article 24 of the EU Directive (basic medical training requirements)](#)
- [An application form for full registration under Section 3 of the Medical Act using alternative evidence of experience under Section 14](#)

**Factors to consider**

Applicants will submit evidence under Section 14 that reflects their individual knowledge, skills and experience. As such there is no single standard package of alternative evidence under Section 14 that demonstrates eligibility for FR under Section 3.

You may find it helpful to refer to the [UK team triage checklist: Section 3 applications involving evidence under Section 14](#) for information about the types of evidence we may expect applicants to provide for the purposes of Section 14.
9 The checklist below asks you to consider whether the applicant satisfies the two key conditions contained in Section 14. The burden is on the applicant to demonstrate that he or she can benefit from the exception created by Section 14.

10 First, Section 14(2)(b) states that applicants must hold a valid UK Primary Medical Qualification (PMQ) in order to benefit from the exception created by Section 14. In other words, to benefit, an applicant must hold a qualification that would entitle them to hold provisional registration under Section 15.

11 Second, Section 14(2) requires a decision about whether the applicant has a non-UK qualification in addition to his or her UK qualification that is regarded as, ‘furnishing a sufficient guarantee of the possession of knowledge and skills’ when judged against the knowledge and skills expected from a primary UK qualification. The non-UK qualification (which should be given a broad interpretation in accordance with Section 55 of the Act) should provide us with ‘sufficient guarantee’ – on other words with reasonable assurance – that the applicant possesses the knowledge and skills expected from a primary UK qualification. It is recognised that a doctor’s knowledge and skill is likely to be demonstrated through a combination of evidence from the doctor’s UK PMQ and the subsequent additional overseas qualification, which may or may not be a further primary qualification.

12 Third, if the Registrar is satisfied that the applicant possesses the required knowledge and skill, Section 14(1) then requires a decision about whether the applicant has undergone medical training and acquired clinical experience, over a period acceptable to us, which has provided ‘a foundation for future practice as a fully registered medical practitioner which is at least as good as the foundation provided by an acceptable programme for provisionally registered doctors.’

13 At all times decision makers will bear in mind whether evidence provided by the applicant correlates with their interactions with the GMC and information we hold about the applicant.

14 Assistant Registrars will consider the following questions in reaching their decisions:

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**Checklist**

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<td><strong>1</strong></td>
<td>Does the applicant hold a valid UK PMQ?</td>
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* Section 14(1) of the Act
† Check information on Siebel tallies with information in the doctor’s application. For example there may be information on Siebel to suggest that the doctor previously failed to meet the outcomes of F1.
2 | Does the applicant hold a non-UK qualification that corresponds with the definition of a ‘qualification’ as expressed in [Section 55 of the Act](#)? (Please note that s55 provides a broad definition of ‘qualification’).

3 | Does the applicant hold a non-UK qualification that gives us sufficient guarantee of the possession of knowledge and skill that corresponds with the prescribed knowledge and skill? That is the knowledge and skill we require for the granting of primary UK qualifications under Section 5(2)(a) of the Act.

Factors that may suggest that the applicant holds a qualification that satisfies Section 14(2) include:

- Does the applicant hold a post-graduate overseas PMQ on our approved list and not simply evidence of completing one or more internships (this does not exclude applicants who have both a non-UK postgraduate qualification and have completed one or more internships)?

- Has the applicant provided evidence that confirms they have been offered a post in the UK or been accepted onto a GMC sponsorship scheme, direct from the sponsoring, training or employing body?

4 | Together, has the applicant’s UK PMQ and medical training and clinical experience provided them with basic medical training that is compliant with article 24 of EU Directive 2005/36/EC?

5 | Does the applicant’s package of evidence, including their UK PMQ and their postgraduate non-UK qualification demonstrate that they have the level of medical training and experience at least equivalent to that we would expect of a doctor who has successfully completed a UK PMQ and F1?

6 | Does the timeframe over which the experience and training evidenced in the applicant’ package cause us concern?

Does it differ significantly in relation to the period over which we would expect a doctor to complete a UK PMQ and F1?

7 | Does the package of evidence show that the applicant has the breadth of experience required by F1? (You may wish to refer to our current guidance on acceptable overseas experience and a foundation for practice).

8 | Is the evidence objective, robust and independent?

9 | Has the evidence been primary source verified? If not is it possible to do so (for example through contact with regulators, employers, medical institutes)?
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| 10 | Do we have confirmation that the applicant has not completed F1, including instances where they may have begun but not finished the year, or failed to complete the year satisfactorily?  

If the applicant has previously dropped out of F1 for failure to meet the outcomes have they since remediated and demonstrated clear evidence of ‘a foundation for future practice as a fully registered medical practitioner’ (in the form of knowledge skills and experience), corresponding with that attained at the successful completion of a UK PMQ and F1? |
| 11 | Has the applicant attempted and failed any part of the PLAB test?  

If they have, have they provided clear evidence of remediation since then? |

**Making your decision**

15 Having taken all the above factors into account, provided the applicant has a satisfactory non-UK qualification in addition to the UK qualification, does the alternative evidence submitted by the applicant demonstrate that they have a ‘foundation for future practice’ as a fully registered medical practitioner, which is at least as good as the foundation provided by an acceptable programme for provisionally registered doctors (which in this case is F1).