

GMC response to proposal for a Directive on a proportionality test before adoption of new regulation of professions

Introduction

The General Medical Council (GMC) is an independent organisation that helps to protect patients and improve medical education and practice across the UK.

- We decide which doctors are qualified to work here and we oversee UK medical education and training.
- We set the standards that doctors need to follow, and make sure that they continue to meet these standards throughout their careers.
- We take action to prevent a doctor from putting the safety of patients, or the public's confidence in doctors, at risk.

Every patient should receive a high standard of care. Our role is to help achieve that by working closely with doctors, their employers and patients, to make sure that the trust patients have in their doctors is fully justified. We are independent of government and the medical profession and accountable to Parliament.

Draft Directive

In January 2017, the European Commission published a package of measures aiming to boost economic growth and make it easier for companies and professionals to provide services across the EU.

A key part of this Service Package is a proposal for a new [Directive on a proportionality assessment of national rules on professional services](#).

GMC response

The GMC welcomes the proposal and supports the overarching aim of ensuring that regulation is necessary, proportionate and justifiable.

The provisions in the draft Directive seem reasonable and, if applied proportionately, seem to be in line with the criteria that we and other UK professional regulators apply before introducing new regulation.

However there are a number of areas where we would welcome amendment and/or clarification.

Patient safety

The draft Directive must make explicit reference to patient safety as being one of the criteria identified that can be used as justification for new measures (recital 12 and article 5).

Healthcare is a unique sector, unlike other regulated professions in which economic considerations may take precedence. Patient safety is, and must remain, the principle consideration when assessing the proportionality of regulation in the healthcare sector.

Administrative burden

It is essential that the draft Directive does not impose unnecessary administrative burdens on competent authorities and on member states. The European Commission must not impose administrative burdens by being prescriptive about the way in which the proportionality test is undertaken. This includes removing the reference to the involvement of "independent scrutiny bodies" in article 4.5 and replacing it with "proper consultation with national stakeholders".

We also call on the EC to provide assurance that the draft Directive won't become a means by which the EC and/or member states delay national regulatory reform by imposing additional bureaucracy for authorities wishing to introduce or amend regulatory legislation.

Member state competency

We would welcome a commitment that the draft Directive does not represent a first step in the European Commission encroaching on member state competence in the area of professional regulation. As the EC itself acknowledges, the EU does not regulate or deregulate professions – this remains a national prerogative* .

De-regulation

We would also be keen to establish whether the proportionality test would need to be undertaken in the case of national legislation being amended to remove regulation or to

* <http://ec.europa.eu/DocsRoom/documents/20504/attachments/2/translations/en/renditions/native>

reduce an identified regulatory burden. In these cases, it would appear to us that a test would not need to be undertaken as any move to reduce regulatory burden would automatically be in line with the aims of the draft Directive.

GMC
February 2017