

19 December 2012

Expert Advisory Group



SHAPE OF TRAINING

4

To Note

The Legal and Regulatory Implications of a New Shape for Training

Issue

1. The implications of a generalist model for training for medical regulation.

Recommendation

2. To note the regulatory and legal implications of a generalist model (paragraphs 6 -26).

Further information

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Background

4. At the EAG meeting on 24 October 2012 members noted that any proposed changes to the structure and organisation of postgraduate training must take account of the legal and regulatory framework within which training takes place. They sought guidance about the implications of some of the ideas currently under discussion.

5. The review has not settled on any particular model for the future. However, much of the discussion so far has revolved around the case for or against some form of generalism. This paper explains, in broad terms, the current legal and regulatory framework and considers the implications of a more generalist approach to training so that we understand the extent of any impediments to change. Because we are at an early stage of the review the conclusions we draw must be regarded as tentative and provisional.

Discussion

6. The regulation of medical education and training is governed by two key pieces of legislation; the European Directive on the recognition of professional qualifications (2005/36/EC) and the UK wide Medical Act 1983 ('the Act'). There are also several pieces of subordinate UK legislation which are made under the provisions of the Act, but they are not discussed in detail in this paper.

Directive on the recognition of professional qualifications

7. The Directive describes the basis upon which European Economic Area (EEA) Member States are required to recognise qualifications held by nationals of other Member States so as to facilitate free movement of labour across Europe.

8. To this end the Directive sets out the minimum requirements for both undergraduate and specialist (including general practice) medical training and qualifications across the EEA. EEA nationals who hold primary or specialist qualifications which meet these standards are entitled to have their qualifications recognised by other Member States and practise medicine in those states.

9. The main requirement of the Directive in relation to specialist medical training (article 25) is that 'Member States shall ensure that the minimum duration of specialist medical courses' complies with the requirements specified in Annex V of the Directive. The Annex sets out the minimum duration for training in different specialties. This ranges from 3-5 years, depending on the specialty. The minimum duration for GP training is 3 years. Training can be longer than the minimum requirements and in the UK often exceeds the minimum. There are currently 54 specialties listed in the Annex.

10. The Directive says very little about the content and organisation of training in different specialties. It requires, for example, that specialist medical training comprises theoretical and practical training...at a medical care establishment approved for that purpose...' but it is silent about things such as curricula.

11. The Directive lists the Certificate of Completion of Training (CCT) as the evidence of formal qualifications awarded to specialist doctors in the UK. Doctors who hold a CCT having completed specialist (including GP) training which complies with the Directive are entitled to have their specialist qualifications recognised by other EEA Members. This enables them to practise medicine as specialists in other Member States.

12. The key point for our current review is that the Directive is extremely difficult to change.¹ While it is relatively easy to amend some details within the Annex to the Directive, such as the title of the CCT or the addition of new specialties, attempting to change the substance of the Directive would be a formidable challenge with a highly uncertain outcome. It would, therefore, be unwise for us to develop proposals which are dependent on securing substantive changes to the Directive.

Medical Act 1983

13. The main requirements of the Directive are transposed into UK law through the provisions of the Medical Act 1983. The Act also sets out the GMC's powers and responsibilities in relation to setting standards for and approving and quality assuring specialist (including GP) training consistent with the requirements of the Directive. Among the requirements of the Act is the duty for the GMC to maintain the specialist register and the GP register.

14. The specialist register was originally established in response to threatened infraction proceedings from the European Commission over the way the UK recognised European specialist qualifications. However, it is important to note that there is no requirement in EC law for the UK to have a specialist or GP register. Not all EEA States have specialist registers or GP registers.

15. Changing the Act is not straightforward, but there are established mechanisms for doing so² and recent years have seen a range of amendments as the GMC has sought to update the statutory framework for regulation in line with changing needs and stakeholder expectations. The most recent changes to come into force are those relating to revalidation.

¹ Although the Directive is currently undergoing a review we do not anticipate significant changes affecting specialist training. There is a proposal to increase the minimum duration of all specialist training to 5 years, but it remains to be seen whether this will be adopted.

² This is generally through a piece of secondary legislation known as a Section 60 Order.

16. We should not, therefore, see current UK legislation as an insurmountable obstacle to change. Indeed, it might be surprising if our review recommendations did not require change at some level, whether to the Act itself or to the suite of subordinate rules and regulations that sit beneath it. The key factor will be whether there is political support for the proposals we bring forward.

Statutory and regulatory implications of a new model

17. While we do not, at this stage, know what the future shape of training will be our written call for evidence describes a move towards 'more general training during the first phase of a doctor's career'. We state:

'A more general approach to training would allow most trainees to choose one of a small number of broad specialty stems/families rather than pursuing a narrower specialist career immediately after foundation training.

Doctors would train to the point where they could deliver competent general care within the community and acute admissions settings. GPs would also train within this broad specialty structure, but would focus on specific elements related to primary care towards the end of this training period.

However, this approach should not preclude opportunities for some to move more directly into narrower specialist training.'

18. This is merely an outline for a shape of training and the discussion which follows necessarily makes assumptions about the architecture of the model which may or may not be carried into the final design. Even so, as it stands, the model does suggest the need for a new statutory and regulatory framework.

EEA issues

19. On the one hand, the concept of the generalist is not, in itself, at odds with the requirements of the Directive. We are unlikely to contravene EC law by adopting a more generalist approach to postgraduate training in the UK.

20. But such a model would have implications for UK doctors wishing to practise in Europe because it does not fit into the model of specialist training described in the Directive. Almost by definition, generalists (as distinct from general practitioners) are unlikely to be entitled to the automatic recognition of specialist qualifications in other EEA Member States enjoyed by current CCT specialists. Generalists would, however, continue to be entitled to have their UK primary qualifications recognised by other Member States.³ This means they would still be eligible to practise, but may not be recognised as specialists. It may also mean that the status of generalist is less attractive for those wishing to practise elsewhere in the EEA. Those holding UK

³ Provided they were EEA nationals or entitled under EC law to be treated as such.

specialist qualifications (the CCT or whatever succeeds it) compliant with the minimum requirements of the Directive would continue to benefit from recognition of their specialist qualifications in Europe. There is, however, the related question of how, in any new model, we would recognise the specialist qualifications of doctors from other Member States who wish to practise in the UK. This is touched on further in paragraph 24 below.

UK issues

21. Regardless of the European implications the introduction of a generalist approach would affect the regulatory model in other ways. For example, generalist training is manifestly not just a truncated version of CCT specialist training, but an entirely different construct with its own end point. We need to decide what the end point of generalist training would be and how it should be signified. For example, in order to be meaningful, would the end point of generalist training need to be marked by the creation of something like a new certificate of generalist training (CGT)? If so, this will need to be reflected in the regulatory structures described in the Act.

22. This, in turn, raises the question of whether there should be a new generalist register which would replace but absorb the existing GP register.

23. The outline model described in the call for evidence indicates there would continue to be opportunities to move directly into specialist training. Given the importance we have placed on flexibility in any new model, we may also assume it should be possible to move from completion of generalist training into specialist training. The current end point of specialist training is the CCT and inclusion in the specialist register. Even assuming the end point remains the same, we might need to examine whether current statute and regulatory mechanisms would support the different routes to the specialist register. If nothing else, the nomenclature may need to change to reflect the difference between generalist and specialist training – perhaps a new certificate of specialist training (CST) to replace the CCT.

24. Changes to our regulatory structures will also have implications for specialists from other EEA countries entering the UK. At present, EEA nationals with recognised specialist qualifications are entitled to be included in the specialist register. We will continue to have to recognise their qualifications under any new model. However, there are already issues about the differences between UK specialist training and specialist training in other Member States. The introduction of a new generalist/specialist model could accentuate such differences in a way which causes us to re-examine the purpose and nature of the specialist register. We may wish to do this anyway regardless of whether we adopt a generalist model.

25. For example, our discussions with stakeholders have frequently touched on the subject of credentialing as a means of recognising competences acquired in discrete areas of practice. If that becomes a feature of any future model there will

need to be a regulatory (and therefore statutory) framework to support it, and the relationship with specialties, sub-specialties and the specialist register worked out.

26. In short, it seems inevitable that the sort of model currently under discussion will require changes to the Act and to related rules and regulations which give effect to the Act. It is far too early to be precise about what those changes might need to be but we will continue to sense check our proposals against the relevant EC and UK legislation as our thinking develops.

Recommendation: To note the regulatory and legal implications of a generalist model.

Resource implications

27. None arising from the recommendation in this paper.

Equality

28. No implications.

Communications

29. Information about the review will be available on the Shape of training website.