



**RCN Policy and International Department
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Review of the balance of competences between EU and UK - Health

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Introduction

This briefing note outlines a series of consultations being initiated by the UK Coalition Government between the end of 2012 and autumn 2014 on the European Union's (EU) powers and its impact on the UK. The briefing summarises the specific consultation issued by the Department of Health about the EU's competences and their impact on health. The RCN is seeking views from its members on the key issues raised.

Background to the Review

In July 2012, the Coalition Government announced it would be examining over a two year period the EU's powers and their impact across the UK, including analysis of the EU competences, how they have been used and what this means for the UK's own interests. The stated starting point for the review is that EU membership in the UK's interests but that reform is needed. A series of consultations on issues from the single market, environment, agriculture, transport and immigration are being launched over the coming two years and health is one of the first to be addressed.¹

Given that nursing and health services in the UK are directly influenced by legislation and policy agreed at EU level, the RCN has an interest in what action the UK takes in future in maintaining, reshaping or renegotiating the EU's role particularly on health and employment issues, including legislation on employees' rights in transfer of undertakings and on working hours. The reviews are calling for evidence from organisations and individuals, and although the subsequent reports will not make specific recommendations, the review process is due to be completed before the next general election in 2015.

Department of Health Consultation and EU Remit in Health

The Department of Health's consultation² highlights the different types of role the EU plays. In some areas it has exclusive competence, where only it can act. However there are many areas of policy and legislation impacting on the health sector where there is shared competence, such as the single market and employment policy, and others where the EU plays more of a supporting role to member states, such as in public health. The EU also uses a range of instruments for cooperation depending on its remit in each area, such as legislation, funding programmes, recommendations, collective bargaining through the social dialogue or forums for exchanging good practice. Where it legislates, however, EU law must be enacted in all member states, and supersedes domestic law.

¹ <http://www.fco.gov.uk/en/global-issues/european-union/balance-of-competences-review/>

² <http://www.dh.gov.uk/health/2012/11/eu-balance-competence-review/>

Given the very different health systems across Europe, the EU is explicitly excluded from defining national health policies or determining how health services in each country should be organised, managed, or delivered. But given that many areas outside the health sector impact on health and wellbeing, the EU is charged with ensuring a “high level of health protection” in all its policies. And in reality many of the most significant EU initiatives influencing nursing have come from other EU competencies, such as single market legislation, (mutual recognition of professional qualifications) , or health and safety at work legislation, such as manual handling and patient lifting regulations.

Key Areas in the Consultation

The Department of Health has identified those areas where Europe has a particular role to play in health and is seeking evidence on these. They include:

- **Medicines and medical devices** – where there is significant EU legislation so that these products can be authorised and sold safely across the EU
- **Specific areas of public health** - including EU legislation ensuring safety of blood, organs and tissues, the regulation of food labelling, legislation on the production and advertising of tobacco products, strategies to reduce alcohol related harm, surveillance and early warning of communicable diseases, and funding programmes for joint action in public health.
- **NHS and patient services** - particularly employment policy such as the working time directive, single European market rules on free movement that impact on health professionals’ qualifications, access to healthcare in another member state, cooperation on e-health to support this and funding through the EU’s significant research and development framework programme.

However this is not an exhaustive list and the Department is interested in receiving evidence on any other areas of EU competence that may significantly impact on the health sector in the UK. From a nursing perspective these could include:

- health and safety at work legislation
- equal opportunities and anti-discrimination legislation,
- EU joint action on the health workforce, including improving health workforce planning
- collective bargaining at EU level or “social dialogue” between trades unions and employers in the hospital sector (including agreements on temporary workers, needlestick injuries, musculoskeletal disorders)

The review is particularly interested in **evidence on the impact of EU action on national interests**, including advantages and disadvantages relating to public health, delivery of health and social care, access for patients to healthcare across

the EU and whether health is taken into account effectively in other EU policies. It also seeks to capture **future options and challenges** for greater or less EU intervention on health issues, for improving existing policy or legislation as well as the impact that future EU enlargement will have on its health competence.

The Department of Health consultation until 28 February 2013 . A report analysing responses to the consultation is due to be published in summer 2013. The RCN's response to the health consultation will also inform its input to other relevant Government Department reviews.

Tell us what you think

The Policy and International Department would like to receive comments from as many members as possible on this important issue . In particular we would be interested to hear from you about the following:

- a) Whether you have any examples or evidence from your experience as a nurse in the UK of the impact of the policies listed in section 4 of this briefing (pages 9-23 of the DH consultation)?
- b) Whether there are any key EU issues for nursing in the UK, which are missing from those areas identified in the DH consultation?

Please send any comments by 31 January 2013 to international@rcn.org.uk

Further Resources

RCN Factsheet on nursing and the European Union

http://www.rcn.org.uk/_data/assets/pdf_file/0006/468105/12.12_The_RCN_and_the_European_Union.pdf

RCN Position on EU legislation for mutual recognition of professional qualifications

http://www.rcn.org.uk/_data/assets/pdf_file/0003/434928/RCN_response_to_December_2011_Mutual_Recognition_of_Professional_Qualifications_legislative_proposals.pdf

Outline of the EU's activities in health from the European Commission

http://ec.europa.eu/health/index_en.htm