Disabilities, health and registration

(version 4)

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Version 2 Amended for the practice committees 15th March 2004
Version 3 Amended after comments from the Health committee 14th May 2004
Version 4 Amended and updated October 2004

Contents

Aims

The aims of this policy are to:

- lay out principles which will underpin the HPC's work on disability and health issues related to registration;
- provide a framework within which the HPC can work, which will form the basis of more detailed work in the future; and
- propose specific topics for work, and the production of guidance for the use of various stakeholders, which committees will be responsible for these different areas of work, and a suggested timescale for each.

Guiding principles

Protecting the public

The Health Professions Council was set up to protect the public. The protection of the public must therefore take precedence over other considerations when setting policy and strategy, and when making decisions about individuals.

This means that there may be instances when it is *necessary* for the HPC to make decisions about a person's registration that are based on a disability or a health issue because the disability or health issue impairs their fitness to practise. This is unaffected by the Disability Discrimination Act.

Professional self-regulation

The Council wishes to avoid un-necessary intrusion into matters which the registrant wants to keep private.

There may be times when it is necessary for the Council to obtain information about the details of a registrant's health or disability. An example of this might be when a complaint alleges that a registrant's health impairs their fitness to practise.

However, as far as possible the Council wishes to set up a system where a minimum of intervention is needed to protect the public, and where registrants actively participate in their own regulation, making professional opinions about their own fitness to practise and adjusting their practice accordingly.

Issues related to a registrant's health or disability are only of concern to the Council where they affect or may affect a registrant's fitness to practise.

In particular the Council will be concerned that action is taken to protect the public where :

- a registrant is unable to meet the Standards of Proficiency for their profession; and / or
- a registrant may endanger either the public or themselves by practising.

Outcomes not methods
All registrants must meet the Standards of Proficiency that the Council sets.

How those standards are met is not a matter for the Council unless there is an alleged breach.

Example
An example of this in practice might be a registrant who uses British Sign Language (BSL), and has a BSL interpreter who works with him in order that he can communicate with his patients, clients and users. Using the BSL interpreter means that he is able to communicate effectively with colleagues, patients, clients, users, their relatives and carers. He can therefore meet the standard of proficiency which states that registrants must:

1.b.4 be able to demonstrate effective and appropriate skills in communicating information, advice, instruction and professional opinion to colleagues, patients, clients, users, their relatives and carers

The Council would also expect this registrant to make efforts to ensure that the confidentiality of their patients, clients and users was maintained.

The Council's expectations of all registrants
The Council expects all registrants to restrict or to adapt their practice where *any* factor (health, disability, conduct, or anything else) may affect their fitness to practise. This is a general expectation which applies to all registrants, not only those who consider themselves to have a health or disability issue, or who have alerted us to it.

An example of how this might work in practice is below. Section 2b 5 of the generic Standards of Proficiency states that registrants must 'be able to maintain records appropriately'. It goes on to say that registrants must also 'be able to keep accurate, legible records and recognise the need to handle these records and all other clinical information in accordance with applicable legislation, protocols and guidelines'.

A registrant who knows that her handwriting is normally considered to be illegible may take steps to print her notes in block capitals, or to type them up, to ensure that they can be used effectively by her colleagues. In this way, she takes reasonable steps to adjust her practice to ensure that she meets the standard.

Other examples of registrants who may make adjustments to meet this standard include a registrant who is visually impaired who needs an assistant or special software to help them take their notes, or a registrant with dyslexia who might prefer to keep electronic notes. In each case, whether or not the adjustments stem from a disability issue, or any other issue, the registrant would have taken reasonable steps to ensure that they met this part of the SOPs.

Registration and employment

There is a fundamental difference between being registered as a health professional and being employed as a health professional. It is very important that registration is never seen as a guarantee of employment. Fitness to practise is not a guarantee of the opportunity to practise, and it is not the same as fitness to work.

There are issues relating to work including accessibility and adjustments that an employer would need to make in order to employ someone. These adjustments, and the likelihood of them being made, should not be a barrier to someone registering with the HPC.

Again, this distinction is not necessarily related to a disability or a health issue: a registrant who meets the Council's standards for their education, training, experience, conduct and health may nevertheless (at least in theory) never be employed in that profession.

Similarly, someone who meets all of the Council's standards for their profession may not ever work in some areas of that profession.

Example

An example of this might be a paramedic with a lower-limb mobility impairment. This paramedic may complete the paramedic training and successfully be registered, but never be employed in a 'front-line' paramedic position where they would need to deal with the manual handling of patients.

Pre-registration fitness to practise

At the point of first registration, a registrant must meet all of the Standards of Proficiency, the threshold standards for their profesion. This is an important principle upon which the standards are based.

Anyone who applies for registration for the first time must therefore be able to meet the full set of standards for their profession.

Expectations of education and training providers – students with disabilities

In order to have a course approved by the HPC, the course provider must show that it meets the HPC's Standards of Education and Training, and that all those who successfully complete the course meet the Council's Standards of Proficiency (SoPs).
In keeping with the principles outlined above, *how* a registrant meets the SoPs is not necessarily a matter for the Council.

Hence, an education and training provider that wished to know what 'reasonable adjustments' it might make in order to allow a disabled student onto its course, should be advised that it could make *any* adjustments that it sees fit, as long as it can be assured that having made those adjustments, the student would meet the SOPs for their profession when they completed the course.

Example
Examples of the kinds of reasonable adjustments would be the provision of course materials in alternative formats, the adjustment of the conditions of work placements, adaptations made to exams and assessments, extra time allowed for dyslexia etc. (This is not an exhaustive list.)

For the purposes of making reasonable adjustments, it is very important to distinguish between the *competence being assessed*, and the *method of assessment*.
For example, it would be likely to be discriminatory to suggest that in order to be registered, an applicant must be able to sit a three hour exam in one sitting. To do so is in effect to say that to be able to sit down for three hours is a competence standard for a profession, when this is not the case.

Students who requested breaks during their exams for dialysis, for example, to take medication, or to ease back pain, for example, could have

their requests met and still show that they met the Standards of Proficiency.

The HPC Standards of Education and Training back up this approach.

6. **Assessment standards**
6.1 The assessment design and procedures assure that the student can demonstrate fitness to practise.
6.2 Assessment methods are employed that measure the learning outcomes and skills that are required to practise safely and effectively.
6.3 All assessments provide a rigorous and effective process by which compliance with external reference frameworks can be measured.

Hence any reasonable adjustments which would still show that the students meets the Standards of Proficiency, would still meet the Standards of Education and Training.

This approach is also supported by the code of practice for the revised DDA part 2, which states in 8.30 that,

'Generally, there is a difference between a competence standard and the process by which attainment of the standard is determined. For example, the conferment of many qualifications is dependent upon passing an academic examination. Having the requisite level of knowledge to pass the examination is a competence standard. However, the examination itself (as opposed to performance in it) may not involve a competence standard – because the mechanical process of sitting the examination is unlikely to be relevant to the determination of a relevant competence or ability.'

Guidance for doctors

If someone's disability or health issue does not impair their fitness to practise, there is no reason why the HPC should necessarily get involved in the details of their individual case.

It is nevertheless important that we are able to set up a system which ensures applicants are treated equally, and are not refused registration on the subjective ideas of individual GPs on what exactly constitutes 'fitness to practise' a particular profession.

The Driver and Vehicles Licensing Agency (DVLA) sets a list of medical conditions which drivers must inform the DVLA about. This list is below:

> You must tell DVLA if you have ever had or you currently suffer from any of these conditions:
>
> • Epilepsy
> • Fit(s) or blackouts
> • Severe and recurrent disabling giddiness
> • Diabetes controlled by insulin
> • Diabetes controlled by tablets
> • An implanted cardiac pacemaker
> • An implanted cardiac defibrillator (ICD)
> • Angina (heart pain) which is easily provoked by driving
> • Persistent alcohol misuse or dependency
> • Persistent drug misuse or dependency
> • Parkinson's disease
> • Narcolepsy or sleep apnoea syndrome
> • Stroke, with any symptoms lasting longer than one month, recurrent "mini-strokes" or TIAs
> • Any type of brain surgery, severe head injury involving in-patient treatment, or brain tumour
> • Any other chronic neurological condition
> • A serious problem with memory or episodes of confusion
> • Severe learning disability
> • Serious psychiatric illness or mental ill-health
> • Total loss of sight in one eye
> • Any visual condition affecting BOTH eyes or remaining eye if one eye only (excluding
> short/long sight or colour blindness)
> • Any visual condition affecting your visual field
> • Any persistent limb problem which requires your driving to be restricted to certain types of vehicles or those with adapted controls
> (from the DVLA website. Crown copyright)

They also set detailed guidance for doctors on which conditions may prevent someone from holding a driver's licence, and what criteria must be met for certain conditions in order for someone to retain or gain a licence.

This guidance for doctors extends to a large volume of material, which is published in a booklet and online. As an example, the requirements for those with diabetes are reproduced on the next page:

Taken from the DVLA '*At a glance*' booklet, which contains information to help doctors advise their patients on whether their medical condition is notifiable to the DVLA.

	GROUP 1* ENTITLEMENT	**GROUP 2** ENTITLEMENT**
INSULIN TREATED Diabetic drivers are sent a detailed letter of explanation about their licence and driving by DVLA.	Must recognise warning symptoms of hypoglycaemia and meet required visual standards. 1,2 or 3 year licence.	New applicants on insulin or existing drivers are barred in law from driving HGVor PCV vehicles from 1/4/91. Drivers licensed before 1/4/91 on insulin are dealt with individually and licensed subject to satisfactory annual Consultant assessment. Regulation changes in April 2001 allow "exceptional case" drivers to apply for or retain their entitlement to drive class C1 vehicles (3500-7500kgs lorries) subject to annual medical examination.
TEMPORARY INSULIN TREATMENT eg gestational diabetes, post-myocardial infarction, participants in oral/inhaled insulin trials.	May retain licence but should stop driving if experiencing disabling hypoglycaemia. Notify DVLA again if treatment continues for more than 3 months.	Legal bar to holding a licence while insulin treated. May reapply when insulin treatment is discontinued.
MANAGED BY DIET AND TABLETS Diabetic drivers are sent a detailed letter of explanation about their licence and their driving by DVLA.	Will be able to retain Till 70 licence unless develop relevant disabilities eg. diabetic eye problems affecting visual acuity or visual field or if insulin required	Drivers will be licensed unless they develop relevant disabilities eg. diabetic eye problem affecting visual acuity or visual fields, in which case either recommended refusal or revocation or short period licence. If becomes insulin treated will be recommended refusal or revocation.
MANAGED BY DIET ALONE	Need not notify DVLA unless develop relevant disabilities eg. Diabetic eye problems affecting visual acuity or visual field or if insulin required	Need not notify DVLA unless develop relevant disabilities e.g. Diabetic eye problems affecting visual acuity or visual field or if insulin required.

*Group 1 includes motor cars and motor cycles.
** Group 2 includes large lorries and buses. The medical standards for Group 2 drivers are very much higher than those of Group 1 because of the size and weight of the vehicle and also the length of time the driver may spend at the wheel in the course of his/her occupation.

Using the DVLA model at HPC
If the Council could produce a similar set of guidance notes to doctors regarding what constitutes fitness to practise in the different professions, then a potential applicant with a health or a disability issue that did not affect their fitness to practise could get their health reference signed off by a doctor, with no need for anyone at HPC to know the details of their case.

This would produce a streamlined process, with clear guidance for general practitioners, ensuring equitable and consistent treatment of applicants, and preserve the dignity of applicants who did not wish to disclose their medical details to anyone except their doctor.

Example
An example of how this might work could be an applicant who wished to be registered as an occupational therapist, and who was a wheelchair user. The guidance notes for doctors completing health references (and for anyone else who needed the information) would clearly state that a lower limb mobility impairment did not impair someone's ability to meet the standards of proficiency for occupational therapy. Their doctor would therefore sign their health reference form, and neither registrant nor doctor would need any more detailed input from the HPC unless the registrant's circumstances changed.

These guidance notes would have to be produced by a process of consultation, with input from the medical profession, and from disability groups and the professions.
The guidance notes would also have to be kept under periodic review to ensure that they reflected any changes to the profession and any developments in treatment or medical knowledge. This work could be undertaken by a Professional Liaison Group (PLG).

The Council could publish these notes in parts, as they became available, perhaps tackling common issues such as such as visual impairments, epilepsy and dyslexia first, before moving on to compiling guidance notes on other issues.

Issues which arise after registration

The situation is different for those people whose fitness to practise becomes an issue after their first registration. Current registrants, and those who have been on the Register, are not necessarily required to meet the entirety of the Standards of Proficiency for their profession, particularly as their practice becomes more specialised.

Professional self-regulation

The first stage in the effective regulation of health professionals who have a health issue is professional self-regulation. The Council expects that a registrant who feels that their health or a disability is impairing their fitness to practise would in the first instance take steps themselves which might include:

- seeking medical help;
- negotiating reasonable adjustments to their working conditions with their employer;
- restricting their scope of practice to those areas where they are sure that their practice fully meets the Standards of Proficiency; and / or
- removing themselves from the Register, or from practice if appropriate while an issue is addressed.

As before, there is no need for HPC to take an active role in any of the above steps, as the registrant is judging their own fitness to practise, and making professional opinions as appropriate. The HPC would only have a rôle to play if an allegation was submitted against a registrant who was managing their fitness to practise in this way.

Self-referrals

However, it is still important that the HPC is able to take action where a registrant's fitness to practice is or may be impaired. In addition, there may be cases where an individual registrant may be ill-equipped to make decisions about their own health or fitness to practise.

In these cases the Council needs to set up a system which:

- respects the dignity of the registrant;
- encourages registrants to be honest about their fitness to practise;
- is, and *is seen to be*, non-punitive; and
- protects the public.

The Council can do this by setting up a process for self-referrals using the processes and rules which already exist under the application process.

This would mean that when a registrant writes to the Registrar to say that they feel their fitness to practise may be impaired by a health or disability issue (and that issue is not already covered explicitly by the guidance notes for doctors), they could be referred to a registration panel, who would consider that person's registration based on the evidence submitted.

Some important considerations about this suggested process are:

- The registrant would have to fully understand all possible outcomes.
- The process would have to be scrutinised to ensure that it struck an effective balance between effectively protecting the public on the one hand, and encouraging registrants whose health may impair their fitness to practise to contact HPC.

Moving forward

Devising and implementing a detailed policy for dealing equitably and fairly with registrants and prospective registrants with disability or health issues is a long-term project that will need constant review.

Dealing with the various issues and groups can be broken down as follows:-

Communications issues

This part of the policy could usefully be overseen by the Communications committee. This committee can oversee a policy on producing documents in alternative formats, guidelines on making documents accessible for people with communication disabilities, accessibility of the website, and can investigate the automation of the production of registration documents in alternative formats. The committee might also decide that it would be useful to have a policy on the accessibility of venues used for meetings, or a policy recommending that positive images of people with disabilities should be used in brochures, etc.

Update
This policy was presented to the Communications committee, and approved on 5th July.

Applicants

Guidance to registered medical practitioners

In order to provide guidance to registered medical practitioners and registrants on what fitness to practise means, and whether certain, specific, impairments or health issues may impede someone's ability to practise lawfully, safely and effectively, the Council can consider whether a Professional Liaison Group should be set up.
This group could have membership drawn not only from Council, but from bodies with expertise and interest in this field, such as disability groups and organisations.

This PLG could provide guidance for doctors and potential registrants from a cross-professional point of view, and could tackle at first such common issues as:

- sensory impairments;
- mobility impairments;

- communication disabilities;
- epilepsy; and
- diabetes.

Any guidance issued from the PLG could be used by prospective registrants, and universities, as well as by doctors to help them to sign applicant's health references.

Update
This group has been set up, and the first meeting is scheduled for October 29th.

Guidance to educational providers

The information provided by the PLG could be used by education providers in making decisions on whether they can accommodate students who alert them to a health problem or a disability that may impair their fitness to practise.

Representatives of the Health committee and the Education and Training committee (with at least one member from the Education sector) could prepare a briefing for education and training providers outlining this view. This briefing could contain examples of good practice and reasonable adjustments that have been made to courses in order to accommodate people with disabilities. This would help to give education and training providers the confidence to make their own decisions about admissions, and equip them to make their own adjustments to the course.

Timescale:
First draft of guidance to be produced for January 2005. Thereafter to be kept under review.

Scrutiny of the 'competence standards' – Education and Training committee (ETC)
The ETC should begin a process of assessing the standards of proficiency, and the standards of conduct, performance and ethics, in order to ensure that they are not unnecessarily discriminatory.
This requirement can be fed back to the aspirant professions, in order to ensure that this process is part of the production of standards when they are first written. This would mean that we do not have to go through this process when new Standards of Proficiency are produced.

Update
Members of the Education and Training committee have been asked to consider the current Standards of Proficiency in case anything contained in them might be un-necessarily discriminatory.
In addition, the Standards are due to be reviewed in 2005, and this process will include an assessment of whether each standard is needed, or whether it might discriminate against people with disabilities.

Registrants

Guidance for registrants– Registration committee
On page 3 of this document, there is some information about the Council's expectations of all registrants. On page 11 there is information about professional self-regulation, and the steps that registrants should take themselves if they are concerned about a health issue that may impair their ability to practise.

There is a page of the registrants' section of the website called 'Meeting our standards – your health' where these could usefully be expanded and published.
(http://www.hpc-uk.org/registrants/health.htm)

This guidance could then form the basis of letters or emails written to registrants who inform us of health issues.

Update
Because this document is guidance on our standards, it will need to be consulted on. A first draft was presented to the Registration committee on 20th July 2004, and a second draft was presented to the Education and Training committee on 13th October 2004.

Self-referrals – Health committee
The Director of Fitness to Practise, is to develop a process for dealing fairly with self-referrals.

Rachel Tripp

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