

## **General Guidance on adjustments for students training in regulated professions**

This document is offered to training institutions in order to describe the medical, regulatory and legal context for provision of adjustments to students training in regulated professions, which are compatible with patient or service user safety. It is intended to cover students training in regulated professions, where patient or service user safety is paramount. As such it is intended to include healthcare disciplines regulated by the GMC, GDC, NMC, HCPC and RCVS, but also teaching professionals. It is hoped that the examples provided will help training institutions differentiate minor adjustments which are compatible with patient safety from substantial adjustments which would place patients or service users at increased risk.

Training institutions are obliged to assess all students entering regulated professions for fitness to train at enrolment. Assessment of fitness to train includes the assessment of fitness to practise and work in the relevant discipline after graduation. Any adjustments provided by a training institution must be compatible with adjustments which are reasonable and practicable in the workplace. Each student must be assessed uniquely but fitness standards must be consistent, objective, based on functions intrinsic to the discipline, and the safety of patients and service users is always the paramount consideration.

### **Definitions of medical disorders and functional assessment**

It is desirable that diagnostic classification systems are clear, objective and are recognised widely. This allows consistency of diagnostic definition and facilitates clear communication between healthcare practitioners. Ambiguous diagnostic definitions are undesirable because these have low levels of validity and tend to medicalise behaviours which lie within the normal or average range. The World Health Organisation diagnostic classification system, ICD10, is recognised globally, and is recognised by the UK courts and pension schemes<sup>1</sup>. This is an acceptable diagnostic classification system since it meets the criteria outlined. There are other systems which would also meet the desirable criteria.

The process of assessing functions intrinsic to work or training is inherent to the practise of occupational medicine. This principle is also mentioned in Equality Act<sup>2</sup> in relation to employees. Students in regulated disciplines are not usually employees contractually. However the Department of Health states that OH health screening for healthcare students should be conducted on the basis that these students are “new healthcare workers”<sup>3</sup>. The Equality Act, including the duty of reasonable adjustment, applies equally to students as it does to employees. The Data Protection Act code of practice<sup>4</sup> states that collection of health information about workers in the employment context must be “fair to individual workers” and that the intrusion represented by the collection of health information must be “no more than is absolutely necessary”. There must be a clear purpose, justified by real benefits that will be delivered from collection of any health information, and interpretation of medical information should be left to suitably qualified health professionals. These principles are appropriate to the assessment of students training in regulated disciplines.

Assessment of fitness to meet a specific set of competencies or capabilities is undertaken by assessing function rather than diagnosis. Confirmation of a specific diagnosis on rigorous, objective grounds, does not reveal the degree of functional impairment in any particular student. However establishing a medical diagnosis is a useful part of the occupational health process, which helps to establish the spectrum of possible functional impairments which might occur in individual cases. Many diagnostic assessments, in spectrum disorders in particular, include quantitative measurement of function in relation to population norms, which are particularly helpful in differentiating students with normal function from those with substantial functional impairment.

## **General requirements for adjustments**

The Equality Act requires educational institutions to consider reasonable adjustments for disabled students on training courses. In addition it is good practice for educational institutions to consider reasonable adjustments requested by students who are not disabled as defined by legislation but who have less substantial degrees of impairment. The code of practice issued with the Equality Act<sup>5</sup> lists the following general categories of adjustments which are a useful guide when consider the full spectrum of possible adjustments:

1. Adjustments to premises
2. Allocating duties to another person
3. Adjustment of hours of work or training
4. Adjustment of the place of work or training
5. Permitting absence from work or training for medical treatment
6. Adjustments to equipment
7. Adjustments to instructions
8. Adjustment to testing or assessment procedures
9. Providing a personal assistant as a reader, interpreter or writer

This code of practice applies to employees but these examples of adjustments are also instructive in the educational field. This is a useful list of categories for OH practitioners to use when considering adjustments for students. Whether an adjustment is “reasonable” depends on cost, effectiveness and level of risk. If an adjustment is ineffective, excessively costly or increases risk substantially, then a training institution is not obliged to implement that adjustment. An adjustment which would place patients or service users at substantially increased risk would be self-evidently unreasonable. If legally challenged, training institutions should be able to demonstrate why an adjustment is judged to be incompatible with a mandatory competency, or why it would place patients at increased risk.

Students who experience temporarily impaired function, due to self-limiting medical events, which only require adjustments for a short time, which do not have any permanent or long term effect on fitness to train or practise, will sometimes require temporary adjustments to their training course. Since these adjustments will self-evidently not be necessary after graduation, greater flexibility is available to training institutions for this circumstance.

Requests for adjustments which apply only to written academic exams are becoming common. Examples include rest breaks during written academic exams and private rooms for written exams. Regulatory bodies do not specify the conditions that must apply during academic written exams. In theory training institutions can offer such adjustments to students on request if they wish. However, if a student were to “need” a private room for a written exam, or if a student were to “need” a rest break during a two hour examination session, on objective medical grounds, then this would call into question that student’s fitness to undertake far more complex, challenging and lengthy clinical duties, under conditions of professional practise, where a private room is impossible to guarantee, and multiple distractions from third parties are unavoidable. In such cases, very careful analysis of the medical evidence by an accredited specialist in Occupational Medicine is desirable to differentiate mandatory adjustments which may be incompatible with fitness to train, from discretionary adjustments which are not based on medical necessity.

## **Competency standards and adjustments**

The Equality Act section 53 states that the application by a qualifications body (or regulator) of a competence standard to a disabled person is not disability discrimination as long as the competence standard is a proportionate means for achieving a legitimate aim. If a competence standard is a proportionate means for achieving the legitimate aim of patient safety, then the application of that standard should not be discriminatory. Section 96 of the Equality Act states that a qualifications body (or regulator) does not need to make reasonable adjustments to a competence standard, in so far as it must ensure that the “qualification gives a reliable indication of the knowledge, skills and understanding of a person” and the need to “maintain public confidence in the qualification”.

Statutory regulatory bodies state that training institutions must make adjustments to allow a student to fulfil the core competencies of their course but that adjustments cannot be made to the core competencies themselves<sup>6</sup>. The Department of Health states that “patient safety is and should always be paramount” in the guidance document “Management of Health, Safety and Welfare in the NHS”. All regulatory bodies recognise that the safety of patient and service users is paramount.

Therefore, as long as competencies are set by a statutory regulatory body as a means of ensuring patient safety, then adjustments cannot be made to those competencies themselves. Reasonable adjustments can be made to methods of teaching and learning and to the assessments by which the student demonstrates that the mandatory competencies are met. Reasonable adjustments can also be made to other aspects of the training environment which do not affect mandatory competencies.

### **General fitness standards**

For all regulated professions, statutory regulatory bodies publish mandatory competencies which students must achieve by graduation. These competencies are designed to ensure the safety of patients and service users. All statutory regulatory bodies include mandatory competencies covering several general areas of function, including literacy, numeracy and the ability to learn and understand. It is self-evident that students who wish to practise in a regulated profession must therefore be capable of the high level of literacy, numeracy, learning and understanding defined by the regulatory body. Conversely it is also self-evident that students who have a substantial impairment of their ability to read, write, learn, understand or process numbers would represent a risk to the safety of patients and would therefore be unfit to train in a regulated profession.

The Higher Education Occupational Physicians group (HEOPS) publishes fitness standards for many regulated training courses which are derived from the mandatory competencies published by statutory regulatory bodies<sup>7</sup>. HEOPS fitness standards are designed to assist training institutions in determining whether students are fit to train and which adjustments are compatible with patient safety.

An effective system for transfer of relevant information about adjustments from training institutions to employers at the point of graduation is recommended, and is in best interest of the graduating student. Such a system should preserve the legal rights of confidentiality, while assuring that relevant information about adjustments is provided for the occupational health service in the employment domain in a timely manner, with appropriate consent.

The following lists of adjustments are offered to assist occupational health practitioners to distinguish minor adjustments which are compatible with patient safety, from substantial adjustments which would inherently place patients at increased risk.

### **Commonly offered adjustments**

This list is not exhaustive. It provides examples of minor and common adjustments, which have been requested by students and accepted by training institutions, and which are compatible with patient and service user safety:

1. Extra time in academic written examinations – this is commonly 25%, by convention, and is not evidence based.
2. Extra time in clinical examinations which are not a time limited assessments of skills and knowledge, and where patient safety does not depend on time-critical performance.
3. Coloured paper or coloured overlays for paper documents.
4. Instruction on good learning techniques including repetition, checking, use of spell checking and grammar checking software and use of a dictionary.
5. Handouts and lecture notes in advance of lectures.
6. The facility to record lectures e.g. use of a dictaphone.
7. Extra time to complete assignments.
8. Use of a laptop to take notes and a choice of paper or computer media to access written information during academic examinations.
9. Text to voice and voice to text software or telephone systems.
10. Written notes from group meetings, conferences and lectures.

11. Adjusted training course to avoid exposure prone procedures (for non-EPP disciplines only).
12. A relapse prevention plan agreed with the treating Psychiatrist to detect early signs of relapse and ensure that patient contact is suspended at an early stage of relapse.
13. Adjusted training hours and extended training course duration.
14. Adjusted equipment for clinical tasks with enhanced visual or sound features.
15. Training in signing or lip reading.
16. Less than full time training when this is compatible with regulatory requirements.

**Adjustments which have been requested in the training environment but which have been considered incompatible with mandatory competencies, or unlikely to be reasonable in the working environment, or likely to place patients at increased risk**

This list is also not exhaustive. The list includes examples of substantial adjustments which have been considered unreasonable by a university because they are judged to be incompatible with patient and service user safety, or which have been found to be impractical in the working environment. Specific local assessment of reasonableness is still required for each unique student:

1. Extra time in clinical examinations which are a time limited assessments of skills and knowledge, where patient safety depends on time-critical performance.
2. Provision of a personal assistant to read or write on behalf of the student.
3. Provision of a personal assistant to undertake numerical calculations on behalf of the student.
4. Provision of a personal assistant, qualified to practise in the relevant discipline, to undertake mandatory practical procedures listed by the regulatory body as mandatory competencies for the discipline.
5. Permission to be absent permanently from training placements.
6. Exemption from any mandatory competencies published by the relevant statutory regulatory body.
7. Adjusted training hours and times are sometimes available to students in the academic environment. However, after graduation and registration, similar adjustments to working hours might not be possible, and could be linked to corresponding adjustments in salary. Less than full time employment could be a reasonable adjustment after graduation and so would not necessarily exclude a student from full time training, with adjustments to give time off for medical treatment.
8. Coloured paper for all records cannot be guaranteed under all conditions of professional practice.
9. Electronic recording devices are not reasonable for all clinical environments. Dictation of clinical records during some clinical activities is impractical and could impair patient safety in areas such as infection control.
10. During academic written examinations, it may be possible for some training institutions to offer a choice of information on paper or on computer media. This choice cannot be guaranteed in the workplace under conditions of professional practice. In addition, many regulators make communication using all routes and all media, including electronic media, a mandatory competency.

References:

1. WHO ICD10: <http://www.who.int/classifications/icd/en/>
2. Equality Act 2010: <http://www.legislation.gov.uk/ukpga/2010/15/contents> (Different legislation applies in Northern Ireland)
3. Department of Health 2007: Health clearance for TB, hepatitis C, hepatitis B and HIV; New Healthcare Workers
4. Data Protection Act Employment Practices Code: [https://ico.org.uk/media/for-organisations/documents/1064/the\\_employment\\_practices\\_code.pdf](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf)
5. Equality Act Code of Practice: <https://www.equalityhumanrights.com/en/publication-download/employment-statutory-code-practice>
6. GMC: Outcomes for Graduates [http://www.gmc-uk.org/education/undergraduate/undergrad\\_outcomes.asp](http://www.gmc-uk.org/education/undergraduate/undergrad_outcomes.asp)
7. HEOPS fitness standards: <http://www.heops.org.uk/guide.php>