

Education and Training Committee, 11 June 2009

The role of the health reference for registration

Executive summary and recommendations

Introduction

The Committee discussed The Disability Rights Commission (DRC) report on 2 December 2008 and requested the Executive to provide further detail on the role of the health reference as a requirement for entry to the register. The Committee also agreed that the paper would review the requirements relating to health in the Standards of education and training (SETs).

The paper outlines what the HPC currently does in relation to the health requirements at the point of registration and those in the SETs, and highlights the current issues.

Decision

This paper is to note. No decision is required.

Background information

Report on the Disability Rights Commission report 'Maintaining Standards: Promoting Equality'.

<http://www.hpc->

[uk.org/assets/documents/1000258Ceducation_and_training_committee_20081202_enclosure10.pdf](http://www.hpc-uk.org/assets/documents/1000258Ceducation_and_training_committee_20081202_enclosure10.pdf)

Resource implications

None

Financial implications

None

Appendices

None

Date of paper

2 June 2009

The role of health reference for registration

Introduction

This paper is to note. The purpose of this paper is to provide information on the role of the health reference, especially at the point of registration, and the possible consequences if the requirement to provide a health reference was changed. The paper also reviews the requirements regarding health and enrolling on to approved programmes set out in the standards of education and training.

The Department of Health (DH) is considering what possible actions it may make regarding the health requirements set by different regulators. The Executive are in contact with the DH and will provide the Committee with any updated information when available.

The legislative context

Our rules prescribe requirements for health references which applicants must provide when applying for admission and readmission to the Register.

Article 5(2)(b) of the Health Professions Order 2001 states:

'The Council shall from time to time prescribe the requirements to be met as to the evidence of good health and good character in order to satisfy the Education and Training Committee that an applicant is capable of safe and effective practice under that part of the register.'

This section of the Health Professions Order would have to be removed if health requirements were to be removed.

The Registration and Fees Rules stipulate how the reference should be provided and by who is able to complete the reference for those applying for admission.

Rule 4(2)(b) of the Registration and Fees Rules requires *'...a reference as to the physical and mental health of the applicant given on the form provided by the Council containing the declaration and information listed in Schedule 4 by the applicant's doctor provided he:*

- (i) is not a relative of the applicant, and*
- (ii) has been the applicant's doctor (or in the case of a general practitioner is a partner in the practice of the doctor of whom the applicant has been a patient) for a period of at least three years ending on the date on which the reference is given;'*

Rule 5(2) of the Registration and Fees Rules states:

'For the purpose of being satisfied as to the physical and mental health of the applicant, the Committee shall have regard to —

- (a) the health reference or other evidence provided under rule 4(2)(b), (4)*

*or (5); and
(b) such other matters as appear to it to be relevant,*

and for this purpose the Committee may seek information additional to that provided with the application for registration from the applicant and from any other person or source as it considers appropriate and may require the applicant to be examined or further examined by a doctor nominated by the Committee.'

Background information

Disability Rights Commission (DRC) report

The DRC report 'Maintaining Standards: Promoting Equality' concluded that health standards have a negative impact upon disabled people's access to regulated professions; lead to discrimination; and deter and exclude disabled people from entry to these professions. The DRC's main recommendation was that all health requirements should be revoked; they argued that there was no evidence that the health requirements provide protection for the public.

The Committee discussed the DRC report at their meeting on 2 December 2008. The Committee agreed to await the outcome of discussions within the DH about amending the health requirements for all health regulators. The Committee noted that retaining the health reference whilst maintaining clear guidance on registrants being responsible for managing their own fitness to practise was preferable.

The health reference

At present the health reference for those applying to join the Register must be completed by a registered medical practitioner. There are three conditions placed on registered medical practitioners to be able to sign the health reference which are listed in Rule 4(2)(b) of the Registration and Fees Rules. They must have –

- 1) been the applicant's registered medical practitioners for three or more years;
- 2) access to the applicant's medical records for three years or more; or
- 3) undertaken a general medical examination of the applicant.

The registered medical practitioner is required to declare that they are '...satisfied that the applicant's health does not affect their ability to practise the profession...'

It is essential that any health requirements we make should be fit for purpose. To identify whether this is the case there needs to be an evidence base to focus on those who may cause problems. However, there is little evidence available due to the small number of health issues that arise at the point of application or renewal.

There is a difference in the health requirements for those applying to join the Register and those renewing their registration. The current Rules clearly show that new applicants must provide a health reference from a registered medical practitioner. Those renewing registration are able to self-declare whether they remain in 'good health'. By self-declaring at the point of renewal, registrants are demonstrating that they are managing any condition and could be subject to fitness to practise proceedings if they make a false declaration.

Guidance on the health reference

We found there was confusion around what was required for the health reference. For this reason we produced a guidance document for applicants and registered medical practitioners called 'Information about the health reference'. This is available to download from the website: <http://www.hpc-uk.org/publications/index.asp?id=109> and explains what is required from them to complete the health reference.

Guidance on registrants responsibility for managing their own fitness to practise derives from the wording in Article 5(2)(b) of the Health Professions Order 2001. Part of the Article refers to 'good health'. The term 'good health' has its own difficulties. We do not only register people who are 'healthy' or in what a lay person would call 'good health'. A registrant may well have a disability or long term health condition which would mean that they would not consider themselves to be in 'good health'. However, as long as the registrant or applicant has insight and understanding, and manages their condition or disability appropriately, this will not prevent them from registering.

Does the health reference act as a barrier?

The number of occasions where information included on a health reference form, has raised potential concern is very small. To date, we have refused registration to two applicants where the health reference highlighted a poorly managed alcohol dependency problem. One applicant subsequently appealed, providing additional information, and a registration appeals panel decided to grant registration. The second applicant is currently appealing.

Health requirements of other health regulators

All of the other regulators require a declaration on health at the point of application to their registers. The requirements vary between those who require a signed declaration from a registered medical practitioner and those who accept a self-declaration.

The General Medical Council and the General Optical Council require a signed declaration, and possibly a full statement, from the applicant about their physical and/or mental health that might raise a question their fitness to practise.

The Nursing and Midwifery Council requires a self-declaration to state they have good health sufficient to practise safely and effectively. On first entry to the Register a supporting declaration from a third party is also required.

The General Dental Council requires a medical practitioner to make an assessment of the applicant's fitness to practise and to provide a signed declaration. This requirement is for those applying to join the register and those renewing their registration.

The Royal Pharmaceutical Society of Great Britain, the Pharmaceutical Society of Northern Ireland, the General Osteopathic Council and the General Chiropractic Council all require a health reference completed by a registered medical practitioner at the point of applying for registration. Those renewing their registration self-declare.

Outside of the health professions, the Civil Aviation Authority require those applying for a Private Pilot Licence to declare their medical fitness, the declaration must be endorsed by a registered medical practitioner with access to the applicants' medical records.

The Maritime and Coastguard Agency (MCA) requires those wanting to work on a UK registered ship to have a medical certificate by an MCA approved medical practitioner. The medical practitioner assesses the applicant against a list of identified conditions.

Health requirements in the standards of education and training

A professional liaison group (PLG) reviewed the Standards of education and training (SETs) in 2007-08. The PLG felt the SET which required compliance with any health requirement was necessary and retained it in the revised SETs.

We set requirements around health for the education and training programmes we approve. SET 2.2.3 (soon to be SET 2.4) states: *'The admissions procedures must apply selection and entry criteria, including compliance with any health requirements.'* The guidance for this standard explains that it is the responsibility of the education and training providers to make sure they have taken all reasonable steps to keep to any health requirements, including making all reasonable adjustments in line with equality and diversity law.

The feedback we have received about this SET shows that education and training providers find this to be a useful standard although it can pose some difficulties about how it should be applied. One education provider told us that the standard was useful because it alerts them to ask the question of whether reasonable adjustments need to be made. They said the guidance was also helpful because it reminds them that each application must be treated on a case by case basis.

Issues

A number of issues have arisen around the health reference and the requirement for a registered medical practitioner to complete the reference.

We have received anecdotal evidence that applicants have been charged for completing the reference. We have also been advised that some applicants lost the offer of positions because of the time it took to become registered as a result of the completed reference being delayed.

We have also been contacted by registered medical practitioners who are unwilling to sign the declaration because they have no history with the applicant, or where the applicant is not registered with a medical practitioner.

Although we have provided guidance on the health reference, some registered medical practitioners still refuse to sign the declaration because they feel they are being asked to confirm that the applicant is fit to practise all aspects of a profession. They express concern that they do not know all aspects of the professions and cannot therefore sign to say the applicant is fit to practise.

Areas for further consideration

As a result of the DRC report the DH commissioned the Council for Healthcare Regulatory Excellence (CHRE) to review the health requirements of all the regulators¹. We provided information to the CHRE and are awaiting the outcome of the review. Depending on the outcome of the review the Executive feels that the requirement for a health reference may need to be reviewed.

There are four potential options. The first option would be to make no changes and keep the current requirements.

The second option could require the registered medical practitioner to certify against identified health issues that are that are a critical concern. The list could include communicable diseases or psychosis and the registered medical practitioner would be asked to identify only those applicants who are not managing their condition. It would be important for the list to be a discreet range relevant to fitness to practise. This option shifts the focus from individual cases which involve insight and understanding. This option may raise potential issues around discrimination and health conditions.

The third option is for applicants to self-declare in the same way that those readmitting do. We would receive a signed declaration that they have no health conditions which may prevent them from practicing their profession. If this option was taken up, a change to the Rules would be required.

¹ CHRE's project on regulators' health requirements for registrants
<http://www.chre.org.uk/satellite/115/>

The fourth option would be to remove the health requirements altogether. However, to do this would require amendments to the Health Professions Order 2001.

Proposal

At present the Committee is not being asked to make a decision. The Executive will keep the Committee updated with any developments from the CHRE review. Any decision should be consistent with the other regulators and may require secondary legislation.

The Executive suggests that on balance, a formal health requirement at the point of registration should be required and that all those applying to join the Register should be able to demonstrate insight and understanding of any condition they may have. A self-declaration such as that completed by those renewing their registration is in keeping with the concept of managing your own fitness to practise. There is no evidence to suggest that there would be a greater risk to public safety if a self-declaration was made rather than a declaration by a registered medical practitioner.

All those on the Register are subject to the same standards and fitness to practise proceedings. Differentiating between those applying to join the Register and those renewing their registration provides an unnecessary barrier for autonomous professionals.