To consider

Medical Students and Disability: Supporting Medical Schools

Issue

1. Providing support and advice to medical schools in relation to students with a disability.

Recommendations

2.
   a. To note the legal advice on the consistency of Tomorrow’s Doctors 2009 with the provisions of the Equality Act 2010 (paragraphs 6-13).

   b. To consider whether the draft guidance from the Higher Education Occupational Physicians/Practitioners (HEOPs) on medical student fitness to train is a useful tool to assist in the assessment of a student’s capacity to meet the outcomes specified in Tomorrow’s Doctors 2009 (paragraphs 14-18).

   c. To endorse the proposal to develop a practical mechanism for supporting medical schools in making decisions about prospective students with disabilities and note the implications for postgraduate education (paragraphs 20-31).

Further information

3. If you require further information about this paper, please contact us by email: gmc@gmc-uk.org or tel. 0161 923 6602.
Background

4. *Tomorrow’s Doctors 2009* sets out the standards for the delivery of undergraduate medical education and specifies the outcomes that all students must meet by the time they graduate. This includes a list of practical procedures. The requirements set out in this edition of *Tomorrow’s Doctors* came into effect for the academic year 2011-2012.

5. The GMC’s Education Strategy states that:

‘By 2013 we will also examine the challenges that doctors with disabilities face at all stages of education and training and any implications for the regulatory framework.’

Discussion

Equality Act 2010

6. In addition to being listed as a public authority, the GMC is also a ‘qualifications body’ under the Equality Act. A ‘qualifications body’ is defined as ‘an authority or body which can confer a relevant qualification’.

7. Under the Act a ‘competence standard’ is defined as ‘an academic, medical or other standard applied for the purposes of determining whether or not a person has a particular level of competence or ability’.

8. There are a number of provisions in the Act concerning disability discrimination. This includes the duty to make reasonable adjustments where a provision, criterion or practice, or a physical feature, puts a disabled person at a substantial disadvantage. The duty to make reasonable adjustments applies to a qualifications body, however, section 53 provides that:

‘The application by a qualifications body of a competence standard to a disabled person is not disability discrimination unless it is discrimination by virtue of section 19 (that is, unless it is indirect discrimination).’

9. Following the implementation of the Equality Act 2010, we sought legal advice to ensure that the provisions contained within *Tomorrow’s Doctors 2009* were consistent with it.

10. In particular we sought advice on three points related to the practical procedures outlined in *Tomorrow’s Doctors*:

    a. Whether the practical procedures are competence standards, as they specify a particular method of performing a role which a doctor may not be required to fulfil after graduation.
b. Whether the practical procedures discriminate against medical students with disabilities for the purposes of the Equality Act 2010.

c. Whether in promulgating the practical procedures the GMC is in breach of its public sector equality duty under the Equality Act 2010.

11. The advice received from counsel is as follows:

a. The practitioner outcomes and practical procedures contained in Tomorrow’s Doctors would be regarded by a Court as ‘competence standards’ for the purposes of the Equality Act 2010.

b. The GMC in applying these competence standards to disabled students is under no duty to make adjustments that would alter the standard of competency required.

c. The GMC is under a duty to make reasonable adjustments in relation to modes of assessment of those outcomes and procedures (except where the method of performance is part of the competence to be attained).

d. The GMC is entitled to distinguish between a medical student seeking access to the profession and a practising doctor. Medical graduates may choose medical careers that do not require them to demonstrate competence in all of the practical procedures listed in Tomorrow’s Doctors. The GMC is entitled to set competence standards that all medical students are required to meet at the point of graduation.

12. In counsel’s opinion, in the event of a legal challenge, the GMC could establish that the application of the practical procedures is a proportionate means of achieving the following legitimate aims:

a. Ensuring that all medical students who graduate will practise in a way that maintains patient safety.

b. Ensuring that those who graduate have sufficient competencies and skills to meet employers’ service needs.

c. Ensuring that those intending to enter the medical profession know in advance with reasonable certainty the core practical requirements of medical practice in circumstances where they lack the knowledge and/or experience to take decisions as to later career specialisation.

13. In addition, counsel’s opinion is that it is likely that the requirement that all undergraduate medical students display competence in all practical procedures would be considered proportionate, particularly given that the GMC has no power to adopt any form of restricted or limited registration.

**Recommendation:** To note the legal advice on the consistency of Tomorrow’s Doctors 2009 with the provisions of the Equality Act 2010.
14. The Higher Education Occupational Physicians/Practitioners (HEOPs) provide occupational health services for higher education institutions (HEI’s) in the UK. Their aim is to provide a forum for developing and exchanging best practice.

15. As part of this work they have developed guidance on medical student fitness to train. The purpose of this guidance is to assist those making decisions about whether a medical students’ health condition or disability might prevent them from meeting the outcomes in *Tomorrow’s Doctors 2009*. The latest draft of this guidance is attached at Annex A.

16. The guidance has been developed with input from, and following consultation with, occupational health physicians based within HEIs with medical schools, among others. It has been mapped against the outcomes in *Tomorrow’s Doctors 2009*. The guidance takes a functional approach, in that its aim is to support the assessment of what capacity is required to achieve the outcomes, rather than specify particular conditions which may or may not preclude a student from satisfactorily completing a degree in medicine.

17. HEOPs have approached the GMC to seek its views on whether this guidance is a useful, practical tool for medical schools when making decisions about the capacity of prospective medical students to meet the outcomes in *Tomorrow’s Doctors 2009*.

18. Should the Board be of the view that this guidance is a useful tool, we will consider how we can work with HEOPs to promulgate the guidance to relevant interests.

**Recommendation:** To consider whether the draft guidance from HEOPs on medical student fitness to train is a useful tool to assist in the assessment of a student’s capacity to meet the outcomes specified in *Tomorrow’s Doctors 2009*.

19. We will respond to HEOPs in writing following this meeting. In addition, the Chair of the Undergraduate Board has accepted an invitation to speak at HEOPs AGM on 10 October 2011, and will be able to feedback the views of the Board directly.

**Supporting medical schools in making decisions about individual students**

20. The responsibility for individual decisions about a candidate’s suitability to study medicine rests with the relevant school. However, we are increasingly being approached by schools seeking advice on whether a candidate’s particular disability might prevent them from satisfactorily meeting the outcomes specified in *Tomorrow’s Doctors*. 
21. Clearly, such decisions are challenging for medical schools, who are keen to strike the right balance between encouraging and supporting students with disabilities, whilst not admitting those who would be unable to demonstrate the necessary level of competence.

22. Whilst we cannot give a guarantee that a prospective student will be granted provisional registration several years hence, we currently respond to such enquiries in a relatively ad hoc manner and there is scope for us to provide more support to medical schools when faced with such decisions. Consistency in our response, whilst taking account of the individual circumstances, is of particular importance.

23. One approach might be to provide more guidance. However, the nature of the enquiries we receive suggest that schools are actually seeking more specific support and advice tailored to individual cases. The survey undertaken to support the seminar on equality and diversity also supports the view that rather than further guidance, we should focus on working with partners to implement the current standards.

24. Therefore we propose undertaking a project to consider how we can provide more practical, ‘real time’ advice to medical schools. The aim would be to support schools in interpreting and applying our existing guidance to their individual circumstances, whilst acknowledging that responsibility for the decision remains with the school. This approach mirrors that taken by the Standards and Ethics Team when dealing with enquiries from doctors and patients about the application of Good Medical Practice, and our other professional guidance.

*Implications for Foundation and Specialty training*

25. In taking this work forward we will need to work closely with the Medical Schools Council and others to ensure that our proposals meet the needs of medical schools. However, in doing so it is important to acknowledge that the issues have implications for all stages of medical education and training.

26. Part of the difficulty is assessing whether a prospective student is not only able to meet the outcomes in *Tomorrow’s Doctors*, but whether there is a realistic prospect of them progressing through and successfully completing foundation and specialty training for the eventual award of a Certificate of Completion of Training (CCT).

27. The issue has been raised by Deans and Colleges and discussed at a recent meeting of the Joint Academy and COPMeD Training Advisory Group. The debates have centred on whether, collectively, we should be managing expectations at an early stage. For example, should we be explicit about the fact that there may be certain specialities where it would be impossible for a future trainee, depending on the extent of their disability, to complete any CCT programme?
28. It has also been suggested that the GMC should explore whether flexibility exists legally to allow individuals to undertake training with a form of limited registration or possibly a credential, without the requirement to complete all elements of a training programme. In this scenario, there would be recognition both of the capacity of the individual and the constraints of the specific training programme.

29. The Education Directorate Business Plan for 2012 includes the commitment that we will consider the need for GMC guidance to help support disabled trainees.

Next steps

30. In addition to the educational aspects, we will also need to take account of the views of colleagues in registration. Again, this applies to both undergraduate (in relation to the granting of provisional registration) and postgraduate (in relation to certification).

31. Subject to the Board’s approval, we will develop proposals for taking forward this work, and report back at its next meeting in November.

   Recommendation: To endorse the proposal to develop a practical mechanism for supporting medical schools in making decisions about prospective students with disabilities and note the implications for postgraduate education.

Resource implications

32. Responding to enquiries from medical schools already takes up staff time. In developing our proposals for providing more effective support we will consider the cost implications, including staff time, to ensure that our proposals are efficient as well as effective.

Equality

33. The content of this paper is focused on ensuring that medical students with disabilities are not unfairly disadvantaged and ensuring that medical schools have the right support to enable decision making.

34. We will consider the specific implications for prospective students with disabilities when developing our proposals, as well as taking account of any wider equality and diversity issues. An update on this will be included as part of our report back to the Board in November.

Communications

35. The proposals set out in this paper are aimed at ensuring medical schools understand and have the support they need to apply our standards.

36. This paper, and its annex, will be published on our website.