

### Allocation of trainees

#### **Background**

In response to complaints made to the GPNRO about the allocations policies of different LETB/Deaneries, and the perceived competing demands of the Code of Practice, Equalities Act 2010 and educational need, COGPED submitted an options paper to MDRS asking for advice on how much variability in procedure was allowable. (See appendix 1). MDRS sought legal advice. In general the legal advisors felt that this was a complex situation, but did not think that there was any direct discrimination in the proposals and that any indirect discrimination could be justified. "...in some senses the more random and anonymous the process is the better in terms of avowing the suggestion of direct detriment .... [the proposed action] is intended to moderate an unequal effect or perhaps more accurately an effect that has undesired results."

When specifically asked if LETBs can allocate to local training programmes based on ensuring even fill across the region, their reply stated: "...we do have the benefit as it were of looking at the PH difficulties and then the dentists case and whilst an entirely blind or entirely even or strategic allocation of places may have some attractions the practical consequence in an under-recruited area would seem to me to be significant. Allocation within LETBs, especially where it is part of a rotation, is a fair way of addressing the difficulty."

In response, MDRS asked the legal advisors whether they could provide actual recommendations. A response is still awaited.

What the applicant guide currently says is:

*"Entrance to General Practice training is competency based, with successful candidates being able to demonstrate the competences required for General Practice training to a satisfactory level. Once selected, successful candidates are allocated to LETBs/Deaneries based on preference ranking and achievement over the exercises involved in selection process, e.g. higher performing candidates are offered first choice of LETB/Deanery. There is, however, a risk associated with the lower level of allocations to programme level if done purely by choice. Therefore, each LETB/Deanery has developed its own allocation policy to mitigate risk. You should visit the website of the relevant LETB/Deanery for further information."*

However successful candidates are allocated, it is important to ensure that any process, including the making of reasonable adjustments, does not unfairly impact any of the 9 protected groups and make reasonable adjustment if required (see appendix 2). The main groups requiring reasonable adjustment are pregnancy and disability, which could impact on someone's ability to work in a specific location, and the main one adversely affected by

allocations based simply on score is ethnic group. The judicial review suggests that Deaneries have a duty under the Equalities Act 2010 to take positive affirmative action where appropriate. The evidence we have from those who have struggled with their CSA and who have then succeeded is that what helped most was social integration and mixed study groups – neither of which are promoted by the existence of enclaves of trainees from the same ethnic minority.

The legal advisors did not comment specifically on the risks or benefits of the prior allocation of trainees with borderline performance at R+S.

### **Proposal**

COGPED considers and adopts the following guidance for LETB/Deaneries when allocating trainees to individual rotations.

### **COGPED guidance for the Allocation of Trainees to individual rotations**

1. Allocation to LETB/Deaneries is based on score and preferences should continue as in the past.
2. Allocation within LETB/Deaneries to Units of Application sub-preference areas is based on score and preferences should continue as in the past.
3. Where the outcome of an un-moderated allocations process within a Training Programme or geographical area would result in either risks to patient safety or undesired results such as the clustering of trainees with the same protected characteristic in a single geographical area, then:
  - a. Applicants requiring reasonable adjustments should be pre-allocated to suitable posts and rotations.
  - b. The LETB/Deanery can allocate trainees to rotations and posts based on ensuring an even fill across the Training Programme or geographical area.
  - c. The LETB/Deanery may also take action to moderate any unequal effects or effects that have undesired results such as the clustering of trainees with the same protected characteristic in a single geographical area.
  - d. Remaining posts should be re-advertised.

Those successful applicants who request “reasonable adjustment” can be considered under two criteria:

#### **Criterion 1 –**

The Applicant has a **disability** as defined by the Equality Act 2010 (see below) for which treatment is an absolute requirement and where the treatment, care or social requirements can only be carried out in the geographical area to which the trainee has applied. This is confirmed by a report from their Occupational Health Physician, GP or their medical specialist.

#### **Criterion 2 –**

The Applicant is the **primary carer** for someone who is disabled as defined by the Equality Act 2010 (see below), expected to be a partner, sibling, parent or child), and these responsibilities can only be carried out in the geographical area to which the trainee has applied. This is confirmed by a report from their Occupational Health Physician, GP or their

medical specialist. *Trainees who provide care for a person **as part of a group of carers**, e.g. a family, are not eligible to apply under this criterion.*

### **Appendix 1. COGPED options paper**



Options for  
allocations of trainees:

### **Appendix 2 The Equalities Act 2010**

The protected characteristics are:

- age
- race
- sex
- gender reassignment status
- disability
- religion or belief
- sexual orientation
- marriage and civil partnership status
- pregnancy and maternity

**NB.** the Equality Act also covers individuals impacted by association e.g. carers.

The Act defines a disabled person as someone who has a physical or mental impairment, which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. For the purposes of the Act:

- substantial means more than minor or trivial
- long-term means that the effect of the impairment has lasted or is likely to last for at least 12 months (there are special rules covering recurring or fluctuating conditions)
- Normal day-to-day activities include everyday things like eating, washing, walking and going shopping.