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Target Audience  
 FOD Inspectors,  
 SG Medical Inspectors  
 SG Occupational Health Inspectors

## **ASSESSMENT OF CLINICAL STAFFING IN OCCUPATIONAL HEALTH DEPARTMENTS OF NHS TRUSTS**

This SIM provides information to assist inspectors in assessing the suitability and competence of occupational health provision in NHS Trusts

### INTRODUCTION

1. Regulations 3 & 5 of the Management of Health and Safety at Work Regulations 1999 (MHSW) require employers such as NHS Trusts to undertake an assessment of the risks to the health and safety of their employees and to give effect to adequate health and safety arrangements in order to control these risks. Regulation 7 requires that employers appoint competent persons to assist them in complying with their statutory duty in regard to health and safety, including for example, the provision of health surveillance (see [para 21](#)).
2. An Occupational Health Service (OHS) will normally be required for an NHS trust under the Regulations outlined in para.1. The level of occupational health provision should link to the occupational health risks as identified within the Trusts' risk assessment and arrangements for health and safety.
3. NHS Occupational Health Services are increasingly contracted to organisations outside the NHS, and are now major players in occupational health service provision in the UK. Securing competence in these services will not only ensure compliance with the Management of Health and Safety at Work Regulations 1999 for the Trust, but also help to provide competent occupational health advice in businesses other than NHS Trusts.
4. This SIM provides guidance on interpretation of the term 'competent person' as applied to medical and nursing staff of NHS occupational health departments. Although the Occupational Health Service provision as a whole, including accommodation and facilities are normally assessed at an HSE visit, this SIM is concerned mainly with the 'competence' and role of clinical staff working within an NHS Occupational Health Service.

### INTERPRETATION OF 'COMPETENCE'

5. Paragraph 49 of the MHSW provides the following guidance: *'Employers who appoint doctors, nurses or other health professionals to advise them of the effects of work on employee health, or to carry out certain procedures, for example, health surveillance, should first check that providers can offer evidence of sufficient level of expertise or training*

*in occupational health.'*

## DOCTORS

6. In NHS Trusts where the health and safety risk assessments indicate the need for a specialist occupational health physician, the level of expertise of the doctor **professionally leading** (though not necessarily managing) the OHS clinical team would normally be that of a registered medical practitioner who is eligible to be entered on the General Medical Councils' specialist register in occupational medicine. Appropriate qualifications would be Membership of the Faculty of Occupational Medicine (MFOM) or overseas equivalent. The lead doctor should also have experience of working in the health services industry. This person is referred to in the context of this SIM as the 'responsible doctor'.

7. It is not necessary for all the clinical work of the department to be conducted by a specialist physician in occupational medicine. For example, General Practitioners with or without qualifications in occupational medicine are competent to perform a wide range of duties. All doctors working in the Service must hold current registration with the General Medical Council.

8. Some clinical work (see [para 15](#)) may also be delegated to appropriately trained and experienced nursing staff. It may be appropriate for some tasks to be delegated to non-clinical personnel with suitable training. The 'responsible doctor' would be the competent person to design such a programme of work.

9. HSE is only concerned with competence in terms of compliance with health and safety law, but recognises that the role and functions of the Occupational Health Service go beyond this. Some important elements of occupational health practice are not concerned with health and safety law but are of considerable importance to NHS Trusts. For example, the role of the occupational health physician in sickness and dismissal cases, attendance at industrial tribunal, and the criteria for accreditation of NHS Occupational Health Departments (in England) in relation to NHS Plus (A service, detailed on the Department of Health's website where employers may access a local NHS Occupational Health Service, able to provide a level of occupational health service to organisations and businesses outside the NHS. Fees are payable for these services, See [NHS Plus](#)).

In Scotland, the Trusts' OH services may be linked to the network of 'Safe and Healthy Working' professional advisors and may provide clinical sessions for that service which from May 2003 are being developed and evaluated by [NHS Scotland](#).

In most of these areas the recommendations of this SIM would also be appropriate.

## THE ROLE OF THE RESPONSIBLE DOCTOR

10. This may be a full time or part time appointment and may be a direct employee, or employed on a contracted out basis. The professional health management procedures within the trust need not specify a minimal time commitment, but is essential that the responsibilities are specified and that the means by which they are achieved is documented; so the specialist can demonstrate adequate leadership of the service.

## CORE RESPONSIBILITIES OF THE RESPONSIBLE DOCTOR

Would normally be as follows:

11. To take professional responsibility for all medical decisions made in the Occupational Health Service for example:

- (1) Input into recruitment of medical staff for the Occupational Health Service
- (2) Ensure documented delegation of duties to OHS Medical staff
- (3) Ensure documented management systems for operation of the Occupational Health Service functions e.g. Health surveillance programmes and patient group directions

12. To be responsible for input to policy and committee work through personal involvement and delegation where appropriate.

13. Ensure satisfactory lines of communication within the Trust management and other health and safety functions within the organisation.

### NURSES

14. The provision of occupational health nursing staff should be determined by the Trusts' risk assessments for health and safety.

15. All nurses in the occupational health service must hold current registration with the Nursing and Midwifery Council. It is advisable that at least one nurse should have previous experience of working in the health services industry.

16. At least one nurse in the department should hold a post registration qualification in occupational health nursing at degree level or equivalent, recordable with the Nursing and Midwifery Council. Such qualifications are normally Occupational Health Nursing Certificate (OHNC), Occupational Health Nursing Diploma (OHND), BSc Occupational Health/Public Health.

17. A range of clinical work is undertaken by an Occupational Health Service that can be performed by nurses with appropriate qualifications and training, other than a specialist practitioner, for example; immunisations, pre employment health screening etc.

### CLINICAL FACILITY TIME

18. Clinical facility time is the amount of time available to clinical OH staff to undertake the range of required activities in order to provide an effective occupational health service. The level of facility time should be determined by the risks and appropriate control measures as identified by the Trusts' risk assessment. The risks posed, the management arrangements for the provision of occupational health services and the size of the Trust itself will determine the level of facility time necessary. Inspectors should be aware that commitment to outside contracts can conflict with the ability to provide an effective service for the employing Trust. The level of staffing should be balanced against the volume of contracts and worker numbers using the service.

19. Guidance on manpower levels is available from the Association of National Health Occupational Physicians (ANHOPS) 'Assessing Occupational Health Manpower in NHS Trusts.' Inspectors should note that there is a national shortage of doctors and nurses qualified in occupational health.

## OTHER SOURCES OF GUIDANCE

20. Other guidance is contained in:

- NHS Plus Standards and Accreditation of NHS Occupational Health Departments for NHS Plus - Department of Health
- The Effective Management of Occupational Health and Safety Services in the NHS - Department of Health
- The Provision of Occupational Health Services for General Practitioners and their staff - Department of Health
- Association of National Health Occupational Physicians (ANHOPS) 'Assessing Occupational Health Manpower in NHS Trusts'

## ENFORCEMENT GUIDANCE

### Benchmark

21. The legal requirement for competent health and safety assistance is to be found in the Management of Health and Safety at Work Regulations 1999. Regulation 7 - 'Every employer shall appoint one or more competent persons to assist him in undertaking the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.....' etc. There are also requirements to provide suitable/appropriate health surveillance under Regulation 11 Control of Substances Hazardous to Health Regulations 2002, and Regulation 6 of the Management of Health and Safety at Work Regulations 1999.

### Generic Guidance

22. Where inspectors find inappropriately staffed departments such as:

No member of clinical staff has specialist practitioner status - neither doctor nor nurse, or the department has no access to such advice (such as service level agreements)

An Improvement Notice should be considered.

23. Where inspectors find

- No specialist physician input is available to provide clinical leadership for the service
- There is an OH physician with specialist practitioner status but no nurses with occupational health qualifications
- Where clinical staffing appears competent in terms of qualifications, training and experience, but there are concerns regarding accommodation and facility time.

Advice in the form of a letter should be considered. Formal enforcement should however be considered where inspectors encounter intransigence on the part of Trust management regarding this advice.

### Local Factors

24. Inspectors should apply local factors based on their knowledge of the employer

#### **Target for action**

25. Inspectors should consider deficiencies in the provision occupational health and safety may indicate general health and safety management failings.

#### **Strategic Factors**

26. The issue of competence in occupational health service providers is of concern to other bodies outside HSE. Guidance in this document reflects advice on this topic from the Department of Health and other interested organisations.

#### **FURTHER ASSISTANCE**

27. Assistance in the form of inspection visits and/or advice is available from locally based EMAS staff contactable through SG.

#### **SECTOR CONTACT**

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