Pre-employment screening of NHS employees with epilepsy

M. Floyd*, J. Chaplin* and J. Lisle†

*Rehabilitation Resource Centre, Department of Systems Science,
City University, London and †Joint Research and Health Advisers,
29 Great Pulteney Street, London, UK

A survey was carried out on whether district health authorities have adopted clear policies with regard to the pre-employment screening of people with epilepsy. The survey revealed that only a small number have done so and that a few others claimed to be following recommended guidelines. It is evident that there is a need for an organization, such as the Association of National Health Service Occupational Physicians, to develop a more authoritative and comprehensive set of guidelines in this area. The paper concludes by suggesting some of the key elements to be included in such a set of guidelines.

INTRODUCTION

The National Health Service is the largest employer in Britain. Its system of recruitment and selection inevitably has a major impact on the prospects of obtaining work and the careers of many people, not least those with health problems. This latter group are especially affected by policies and procedures relating to the health screening of potential employees.

In view of the importance of this, the Association of National Health Service Occupational Physicians asked two of its members to carry out a survey of NHS policies in relation to the employment of people with epilepsy. Before describing the more wide-ranging and extensive survey that has since been carried out, it will be helpful to consider what guidance exists in this area.

An excellent statement of good pre-employment screening practice is given in the Health and Safety Executive's Guidance Note MS 20. This states that 'decisions to refuse employment on the basis of pre-employment health screening should only be taken on the basis of carefully defined criteria relating specifically to the job in question'.

The note is particularly emphatic regarding the need for a clear statement of policy in this area: 'employees and occupational physicians or occupational nurses . . . should have a clear policy or procedure on the enquiries they will undertake into the health of applicants for jobs prior to employment'. The policy should also indicate 'the types of offers of employment that might be made'.

At a conference in June 1985 on 'Epilepsy and Employment', it was argued that 'the whole area of recruitment and disclosure should be covered by an agreed code of practice'. It was subsequently suggested that such a code should contain four essential elements:

- job application forms should be accompanied by a leaflet setting out the health standard required; any

special physical qualifications required; any medical conditions which would be a bar to certain types of jobs;
- no questions about health should appear on job application forms;
- the health declaration form should be separate from the job application form and inspected only by those qualified to interpret it, and only after suitability for the job has been decided on non-medical grounds;
- rejection on medical grounds will only be possible after medical examination and/or medical advice.

An earlier examination of policies and procedures in the National Health Service provided evidence that these fell somewhat short of 'good practice' as outlined above. The author, a consultant psychiatrist with a special interest in epilepsy, concluded that NHS 'employment policies often seem to be based on prejudice, fear, bigotry and ignorance, but hardly ever on a rational view of the nature and prognosis of epilepsy'. This view was based upon the experiences of over 500 of the author's own patients, the experiences of the advice and welfare section of the British Epilepsy Association and the responses to an appeal for information published in the Nursing Times and Nursing Mirror. These indicated that 'health enquiry forms seem to be screened either by the nursing authorities themselves or by somebody who is not qualified to understand what the answers on the forms mean'.

The author noted that 'in 1982, health authorities were asked to draw up their own codes of practice on the employment of disabled people . . . (but) many, if not most, have not'. He also pointed out that 'there is an unwillingness to accept people with even a history of epilepsy in many schools of nursing'. The responses to the Nursing Times and Nursing Mirror appeal for information confirmed that 'decision-making at a local level is likely to be arbitrary, unfair, unexplained and . . . often not made by a qualified doctor'.
METHODS

A questionnaire, adapted from Lisle and Waldron's earlier study, was sent to all of the 165 health districts in the United Kingdom outside the London regions, the London regions having co-operated in the previous study 12 months earlier. The questionnaire (see Appendix) was sent to the District Medical Officer and sought information on whether any written policies had been adopted by the authority with regard to health screening of people with epilepsy. If such a policy did exist, information was requested regarding the nature of the policy and its origin. Questions were also asked regarding any specific criteria used to judge 'fitness for work'.

The data were collected over an eight-month period between June 1988 and February 1989. A telephone follow-up of non-responders was conducted in July/August 1988, November 1988 and January 1989. Completed questionnaires were returned by 162 districts, giving a response rate of 98 per cent. In the majority of cases the questionnaires were completed by the District Medical Officer, although some were passed onto the occupational physician to complete and return to the research team.

RESULTS

A few districts, 16 in all, had a written policy regarding the employment of people with epilepsy. Several had based their policies on existing recommended guidelines. Thus two districts stated that their policies were based on guidelines which were proposed by Betts. Another district reported that its policies on nurse recruitment followed the guidelines of the Royal College of Nursing; that is to say, only applicants who had met the driving licence requirements - 2 years free of seizures or 3 years of seizures only whilst asleep - would be considered.

However, several districts have adopted much more restrictive policies. Thus, in one, any history of epilepsy means that an applicant is not 'normally' considered for any job.

Eleven other authorities reported that, although they had not formally adopted a policy in this area, they did nonetheless apply certain criteria when recruiting people with epilepsy. Many of these followed the Royal College of Nursing guidelines, referred to earlier, but some were rather more stringent. Thus one district requires applicants to be free of any kind of seizures, including those occurring during sleep, for a period of at least 2 years.

Most of the other districts said that, although there were no written criteria, recruitment practice did in fact conform to certain rules. Often these were similar to those mentioned earlier and required a period, usually 2 years, of no seizures. Eighteen districts stated that each case was considered 'on its own merits'.

Although many districts claimed that someone who met the requirements for a driving licence would be considered for most jobs in the authority, they did point out that any history of epilepsy would be a bar to certain occupations. The most widely cited example given was that of ambulance driver. This is a direct consequence of the driving licence regulations, which bar anyone who has had an epileptic attack since the age of five from driving heavy goods vehicles or ambulances. One district, in its written policy, extended this bar to other 'sensitive' jobs, such as neonatal nurses, industrial therapy unit staff and theatre nurses. Some districts mentioned other factors which would preclude employment for anyone with a history of epilepsy, such as working at heights, or with sharp rotating machinery.

Notably absent from most of the written policies and the criteria, written and unwritten, was any reference to the nature of the epilepsy and the type of seizures. Just one district specified the absence of 'grand mal' seizures, while another said it took account of whether or not the seizures were preceded by an aura. One district said that they also looked for the absence of side-effects from the medication. Another said it enquired into the 'post-epileptic state'.

Only a few districts stated that, in considering each case individually, the job requirements were also taken into account. One district said that suitability was judged by assessment of the job and the epilepsy, but did not specify how this was done.

DISCUSSION

The most striking finding of the survey is the extent to which practice in the National Health Service varies from one district to another. Unlike the Civil Service, where pre-employment screening practice varies hardly at all from one geographical area to another, or from one department to another, each health district has its own approach. It is also very evident that even where authorities have formulated policies, or are applying criteria of some kind, these are based on a wide variety of suggested guidelines.

Nevertheless the findings of this survey are on the whole encouraging. They indicate that progress is being made towards the development of more enlightened policies on the employment of people with epilepsy in the NHS. However, it does also suggest the need for stronger, and more detailed guidance to be provided. The Association of National Health Service Occupational Physicians would seem to be well placed to provide this and it is hoped that they will be able to do so. We feel that this is very important and a matter of some urgency as, in the absence of agreed guidelines, it is likely that some applicants are being unjustifiably rejected for jobs without appropriate medical advice.

A good starting point for the development of such guidelines is provided by those proposed by Betts for the employment within the health service of people with epilepsy. They state that 'a person with epilepsy who has been attack-free for 2 years (ie who is legally entitled to drive) shall be deemed fit for employment in any branch or profession within the...
Table 1. Examples of responses received

<table>
<thead>
<tr>
<th>Districts with a written policy (n = 16)</th>
<th>Districts operating guidelines (n = 11)</th>
<th>Districts with no policy or guidelines (n = 135)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Nurses must be 2 years fit-free or 3 years with fits during sleep only</td>
<td>• 'Fitness to drive' regulations</td>
<td>• Each case judged on individual basis</td>
</tr>
<tr>
<td>• If able to drive, epilepsy is not a bar to employment in any NHS post and, even if having day-time seizures, someone can be employed provided no danger to life</td>
<td>• Society of Occupational Medicine guidelines for recruitment of nurses</td>
<td>• Applicants assessed in terms of medical condition, nature of work and degree of control</td>
</tr>
<tr>
<td>• History of epilepsy prohibits employment except for 'safe' jobs</td>
<td>• Nurses Central Clearing House handbook</td>
<td>• Epilepsy not a bar to employment</td>
</tr>
<tr>
<td>• History of epilepsy means that applicant is normally not suitable for any job</td>
<td>• Society of Occupational Health Nurses' Working Party report</td>
<td>• Would not allow an uncontrolled epileptic to be put in a position where he is at risk</td>
</tr>
</tbody>
</table>

In the case of other individuals, whose epilepsy is not fully controlled, the guidelines suggest that they 'should not be automatically barred or dismissed from employment within the health service' and that before a decision is made regarding their suitability for employment their 'medical adviser must be consulted'.

A letter to the British Medical Journal, however, criticised these guidelines. It pointed out that 'they are alleged to be based on the driving licence regulations, yet no mention is made of the requirement that to hold a licence a person must not be a danger to the public'.

This letter goes on to point out 'the recommendation that only a cabal of specialists in epilepsy should adjudicate on a person's suitability for new or continuing employment is an example of the worse form of special pleading. This ignores the role of the Employment Advisory Medical Service ... (and) wrongly supposes that specialists in epilepsy are also specialists in employment matters'. It is clear therefore that an acceptable set of guidelines will need to strike a more judicious balance between the need to be fair to the applicant with epilepsy and the need to ensure their safety and that of their fellow workers as well as the general public.

We would propose, as a starting point for debate on this topic, that:

- all district health authorities should be required to formulate a policy regarding the employment of people with epilepsy and that this should then be backed up by a more detailed set of guidelines, which can be applied, in a consistent way, by their occupational health staff;
- the policy and guidelines should be publicised and included in information circulated to job applicants;
- that all applicants with epilepsy, who meet the requirements for an ordinary, private driving licence should, at the very least, be considered for any job in the NHS, except those excluded by the current regulations for vocational licences, such as ambulance driving;
- only a very small number of occupations in the National Health Service, such as ambulance driving, should be regarded as unsuitable for all people with a diagnosis of epilepsy, irrespective of its nature;
- judgments as to an applicant's 'fitness for work' should always be based on detailed and comprehensive information on both the requirements of the job and the nature of the epilepsy.

In developing an acceptable set of guidelines it is essential that all employing organizations recognize that they can only expect applicants to be honest and disclose their epilepsy if they are confident that this information is going to be used in an informed and sensitive way or, in other words, if the organization's procedures for pre-employment screening are thorough and fair. In conclusion, it is worth noting that, should a future government introduce legislation similar to the Americans with Disabilities Act (1991), which is being implemented in the United States of America, then the organization would, in fact, be obliged not only to demonstrate this, but also show that they had made 'reasonable' efforts to 'accommodate' the prospective applicant by modification of the job and of the work environment wherever this was feasible.

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REFERENCES


**APPENDIX – QUESTIONNAIRE SENT TO HEALTH AUTHORITIES**

1. Name of district: 

2. Total number of NHS staff employed in your district? 

   - Don’t know 

3. Does your district have an occupational health service? 

   - YES 
   - NO 

4. If ‘YES’, name of district occupational physician: 

5. In your district, how many employees are known to have epilepsy? 

   - Don’t know 

6. Indicate their types of employment: 

7. Are there any posts from which people with epilepsy are absolutely barred? 

   - YES 
   - NO 

8. If ‘YES’, please indicate which posts these are: 

9. Does your district have a written policy or guidelines for the employment of people with epilepsy? 

   - YES 
   - NO 

10. If ‘YES’, please include a copy of this document. 

11. Please indicate if you would be willing to co-operate in a study to do with epilepsy in the NHS. 

   - YES 
   - NO 

Thank you very much for completing this form. If you have any other comments, it would be helpful if you could make them in the space below.