

GUIDANCE NOTES for the Equality Act 2010 (“The Act”)

1. <<Company Name>> welcomes applications from people of the community and we particularly wish to employ more people with disabilities. We want to support you through the application process.
2. The Company is committed to offering equal opportunities to applicants with disabilities during the recruitment process and will endeavour to provide help and support where needed.
3. If you believe that you are disabled, please let us know within the Act please tick the appropriate box on the application form. This will help us to provide you with all the help and support possible throughout the selection process and, if successful, throughout your employment.
4. All job applicants are strongly advised to complete the relevant section/s on the application form.

Defining a disabled person

A person has a disability if **all** of the following apply:

- They have a physical or mental impairment which has a substantial adverse effect on their ability to carry out normal day-to-day activities; and
- The impairment affects their ability to carry out normal day-to-day activities; and
- The impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities; and
- The adverse effect is long term.

NB/ People who have had disabilities in the past are also covered by the Act.

What impairment covers

Impairment covers both physical and mental impairments. Examples include:

- Sensory impairments, for example sight, hearing, touch, smell, taste, or mental illness;
- Mental impairments, for example learning difficulties, autism, or mental illness;
- Physical impairments, for example mobility, dexterity, or missing limbs;
- Conditions that worsen over time, for example arthritis, multiple sclerosis; and
- Severe disfigurement (here there is no restriction on the type of disfigurement) where the impairment has a substantial adverse effect on the ability to carry out normal day-to-day activities.

Normal day-to-day activities

Normal day-to-day activities are those activities which are carried out on a regular basis. These activities must be normal for a large number of people for example, going to work, shopping, reading, cooking, walking etc.

Substantial adverse effect

A substantial adverse effect is something which has a substantial adverse effect on a person's ability to carry out normal day-to-day activities. It is not a trivial effect and is beyond the normal differences in ability which exist among people. If a person can carry out day-to-day activities in pain or with difficulty this can amount to substantial adverse effect.

NB/ Any medication or treatment will be disregarded when considering whether a person is disabled. For example, where a person with a hearing impairment uses a hearing aid, the impairment is not considered as a disability *where it would be were it not for the hearing aid would the person suffer substantial adverse effect.*

Long term adverse effect

A long term adverse effect is an impairment which:

- has lasted or is likely to last for at least 12 months;
 - is expected to last for the rest of a person's life; or
 - is degenerative / progressive e.g. HIV, where the person is expected to live for less than 12 months to live; or
- where the person is expected to live for less than 12 months to live; or, even if no adverse effects are shown at the time of diagnosis.

Severe disfigurements

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Pre-employment health screening

Prospective employers can ask health-related questions of job applicants before making them to do so for one or more reasons permitted by the Act. The employer must establish whether the employee is fit to undertake the job. The employer must make reasonable adjustments in connection with the job. The employer will be able to carry out a function that is integral to the job. The employer is considering taking action against the employee. These exceptions will be prohibited. Asking for a medical certificate. However, if a job applicant who has been asked for a medical certificate, the burden will be on the employer to prove that the applicant is fit for the job.

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Reasonable adjustments

Once a disability is identified the Company has a duty to make reasonable adjustments where required. The Company will consider:

- Whether there is a need to make reasonable adjustments to avoid placing the disabled employee at a substantial disadvantage?
- Whether the adjustments are possible?
- Whether it is reasonable for the Company to make the adjustments?

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Where the Company does not know of the existence of a disability, it will be exempt from any duty to make reasonable adjustments. However, if the Company ought to have known that the employee was disabled, the exemption will not apply in the manner set out in s.6 of the Act.

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