



## Press release

December 2013  
For immediate release

### **New research: removing disability discrimination at recruitment**

The *Equality Act 2010* has had a significant impact on the practice of asking pre-employment health questions before a job has been offered, new research published in the journal *Occupational Health [at Work]* reveals.

A survey of occupational health professionals in public and private sector organisations finds that just one in 12 employers (8%) now asks pre-employment health questions with the application form or at shortlisting, compared with more than one in three (36%) when the survey was last carried out in 2006. Section 60 of the *Equality Act* makes it unlawful for an employer to ask questions about a person's health or disability prior to a conditional job offer being made.

Although the research finds that most organisations continue to use health questionnaires or declarations in the recruitment process, in the vast majority of cases, these are now completed either when a conditional offer has been made – with the job offer 'subject to a satisfactory health screening or medical' – or before the successful job applicant has started work.

Employers are no longer sending out lengthy and complex health questionnaires that, in most cases, are of little value in determining fitness for work. The previous survey, in 2006, found employers often asked 10s or even 100s of questions, with many of dubious value. Most had asked about mental health, epilepsy and other common conditions such as diabetes and asthma. Some employers were even asking female applicants about gynaecological problems or painful periods, or requiring applicants to report colour vision deficiency for jobs where this was not relevant. One employer in 2006 asked 164 separate health questions.

- The median number of health questions included in recruitment screening questionnaires has dropped from 28 in 2006, to 15 in 2013.
- Many employers (30%) now ask job applicants or recruits to complete a simple health declaration, rather than asking them to fill in a formal health questionnaire.

While the *Equality Act* bars most pre-employment questions on health or disability, it is lawful, and good practice, to ask job applicants if they need any adjustments for the recruitment process – such as providing an induction loop at the job interview to help someone with a hearing impairment, or allowing a candidate with dyslexia more time to complete a written test. It is also lawful to ask questions about disabilities for equality monitoring purposes. But such information should not form part of the decision-making process.

- According to the survey, two-thirds of organisations do ask job applicants about disabilities for equality monitoring purposes. However, one in five organisations allow this information to be seen by the recruitment decision makers.
- Most organisations (93%) ask job applicants if they need help or adjustments to attend the interview or selection process, and 61% include this question on the application form.

Dr John Ballard who carried out the research for *Occupational Health [at Work]* said:

“Asking a job applicant about their health or disabilities before considering their application on merit is potentially discriminatory and is, thankfully, now unlawful. This survey shows that, among employers with occupational health provision, the *Equality Act* has made a difference, with most organisations working within the law and thus helping to remove barriers to employment for people with disabilities.

“There is no justification for asking a plethora of questions about a person’s health or disabilities that have no relevance to the job concerned, and it is certainly unlawful to ask them before at least a conditional job offer has been made.

“However, it remains a concern that some employers ask candidates on the application form if they need help to attend the interview or require an adjustment to the selection process but do not keep that information confidential from the recruitment decision makers. There is a danger that asking job applicants to state on the application form if they need a reasonable adjustment could draw attention to a person’s disability, resulting in the candidate being rejected at the outset. It is important such information is kept separate from the decision-making process.

“Similarly, around two-thirds of organisations enquire about applicants’ disabilities for diversity-monitoring purposes before a job has been offered. This is allowed under the *Equality Act*, but using that information in the decision-making process is not. Worryingly, in one in five organisations, the recruitment decision makers see this information, potentially opening the door to discriminatory practice.”

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**Notes for editors**

1. The research is featured in the December 2013/January 2014 edition of the journal *Occupational Health [at Work]*. The journal is published by The At

Work Partnership, London.

[www.atworkpartnership.co.uk/occupationalhealthatwork](http://www.atworkpartnership.co.uk/occupationalhealthatwork)

2. **Suggested citation:** *Ballard J. Health screening at recruitment. Part 1: pre-employment and pre-placement health questionnaires and declarations. Occupational Health [at Work] 2013; 10(4): 26–35.*
3. The survey is based on the views of 163 occupational health practitioners working in organisations that, together, employ around 1.35 million people (response rate 28%).
4. The results reflect practice in larger organisations with an occupational health function. For comparison, a survey of small and medium-sized firms by the Equality and Human Rights Commission in 2012 found that despite restrictions on the use of pre-employment health questions since the *Equality Act 2010* came into force, the practice remains commonplace.\*
5. The *Equality Act* (section 60) made it unlawful for employers to ask questions about a person's health or disability before it had made at least a conditional job offer. The reason for the change was to introduce transparency. Before the *Equality Act*, it was difficult for a disabled person to prove that the reason they had been rejected for a job was because they had disclosed a health condition – it was too easy for the employer to say that the decision was in fact down to some other reason, such as performance at interview or that another candidate had more relevant experience.
6. As well as a change in the law, a 2010 evidence review carried out for NHS Plus by occupational physicians Dr Ira Madan and Dr Siân Williams, found a 'paucity of evidence' for the effectiveness of pre-employment health screening and recommended that it be used only 'where there are clear and explicit health criteria'.\*\*
7. Guidance from the Equality and Human Rights Commission states: 'It is a breach of section 60 to use monitoring information about health and disability to shortlist candidates during a recruitment process. If the information is legitimately sought for monitoring purposes, it should be kept separate from the application form and should not be seen by the interview panel.'\*\*\*
8. The employment rate of working-age disabled people is 46%, compared with around 76% among non-disabled people (Office for Disability issues, 2012).

\* Adams L, Oldfield K et al. *Use of pre-employment health questions by employers. Research report 87. Manchester: Equality and Human Rights Commission, 2013. ohaw.co/1im8zM1*

\*\* Madan I, Williams S. *A review of pre-employment health screening of NHS staff. London: TSO, 2010. ohaw.co/H6Jj0S*

\*\*\* *Pre-employment health questions: Guidance for employers on Section 60 of the Equality Act 2010. Manchester: Equality and Human Rights Commission, 2013. ohaw.co/1gcdTVv*

*Occupational Health [at Work]* is published by The At Work Partnership, an independent publisher, research and training organisation, specialising in occupational health and disability at work.

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