

Briefing

Employment adjustments for people who have Cancer

This briefing is not an authoritative statement of the law. While we have made every effort to ensure that the information we have provided is correct, Business Disability Forum cannot accept any responsibility or liability.

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Introduction

What is cancer?

Cancer is a disease caused by normal cells changing so that they grow in an uncontrolled way.

The uncontrolled growth may cause a lump called a tumour to form. On its own a tumour could make an individual quite ill, for example by pressing against nerves, blocking the digestive system or blood vessels, or by releasing hormones that can affect the normal workings of the body. Should a tumour become malignant and spread to other parts of the body then this becomes more difficult to treat and can make an individual very ill because more parts of the body are affected, sometimes making their life prognosis uncertain.

Cancer is an illness that affects many people of all ages. It is estimated that 2.5 million people in the UK have had a cancer diagnosis^[1] and around 1 in 2 people in the UK will develop some form of cancer in their lifetime.^[2] There are approximately 890,000 people of working age who have cancer in the UK^[3] with a further 360,000 diagnosed every year.^[4]

In addition to the significant physical impact of cancer, for many people there is also a psychological impact of a cancer diagnosis.

[1] Macmillan. Cancer statistics (Accessed 26th January 2018).
Figures as per 2015.

[2] Cancer Research UK. Press release 2015 (Accessed 26th January 2018).

[3] Macmillan. The rich picture – people of working age who have cancer, 2017 update, p.2, (Accessed 26th January 2018).
Figures as per 2015.

[4] Cancer Research UK. Cancer statistics. (Accessed 26th January 2018).
Figures as per 2015.

Carcinomas

About 85% of cancers are carcinomas. They start in the epithelium, which forms the covering of the body (skin) and the lining of the organs in the body. The common forms of breast, lung, prostate and bowel cancer are all carcinomas.

Leukaemias

Leukaemia is a cancer that affects the tissues where white blood cells (which fight infection in the body) are formed, i.e. the bone marrow and lymphatic system. Leukaemia and lymphoma are quite rare and make up about 6.5% of all cancers.

Lymphomas and myelomas

These two types of cancer affect the immune system. Lymphomas (5% of cases) affect the lymphatic system that runs throughout the body, filters fluid and fights infection; myelomas (1% of cases) start in the plasma, one of the components of blood, that helps fight infections.

Brain and spinal cord cancers

About 3% of cases affect the nervous system formed in the brain and spinal cord. The nervous system controls the body by producing (in the brain) electric messages which are sent throughout the body via nerves.

Sarcomas

Sarcomas represent less than 1% of all cancers, sarcomas affect the connective tissues such as bones (osteosarcoma) and soft tissues (cartilage or muscle).

Effects of cancer and cancer treatments on a person

How cancer and cancer treatments affect a person will depend on:

- The cancer: the type of cancer, where it is located in the body, how fast it is growing and whether it has spread to other parts of the body (advanced cancer).

Cancers may cause a number of different symptoms that may impact on an employee at work, for example: abnormal bleeding; tiredness; unexplained weight loss; and pain.

- The treatment: the types of treatments used, how long treatment is given for, and the side effects of treatment.

Cancer treatments can cause a variety of side effects. These may include being more prone to infection, fatigue (extreme tiredness), sickness, mouth problems (for example, sore or dry mouth), digestive problems (for example, loss of appetite, diarrhoea), nerve damage (for example, tingling or numbness in fingers or toes) and hair loss.

Employment adjustments for people who have Cancer

Cancer can affect the life prognosis of a person, particularly when no treatment can stop its progression or when an individual's body does not respond to treatment.

- Other health problems: whether the person has other significant health problems for example heart problems, chest problems, or diabetes.

For many people who have cancer there may be times during their illness and / or treatment when they feel tired and unwell. This may be due to a combination of the symptoms caused by their cancer and side effects from their treatment.

Usually any treatment-related side effects settle after treatment has ended although some may persist for some weeks or months afterwards. However, some side effects of cancer treatments, such as fatigue, are long lasting or permanent.

Employment and people who have Cancer

Under the Equality Act (2010) cancer is recognised as a disability from the point at which it is diagnosed.

Many people who have cancer will be protected under this Act but may not consider themselves to be disabled. Nevertheless employers have a legal obligation to make reasonable adjustments and not to discriminate against employees who might be facing barriers at work because of a disability or long-term condition – even if it has not been accepted as such by the individual.

Employers should be aware that non-visible disabilities such as cancer mean that barriers can be less obvious. This means reasonable adjustments may be harder for employers to determine and to put in place. Employers can seek advice from Occupational Health services, Work Coaches and Disability Employment Advisers at Jobcentre Plus who refer people who have cancer for positions. There are also organisations which offer specialist advice and appropriate disability awareness training to help employers ensure that their recruitment process are barrier-free for those who have cancer – **see page 22 for further details.**

It is important that employers have an open and honest conversation with employees about the barriers that may be present in the workplace and what simple measures might help remove these barriers. The best practice approach is to make adjustments for anyone who needs them in order to work effectively and contribute fully to your organisation.

Employment adjustments for people who have Cancer

Most employers will want to know what is 'reasonable'. Doing what seems fair for the individual and others who work for you given the size and resources of your organisation is a good place to start.

This guidance will help you deliver best practice.

- You might need to treat people differently in order to treat them fairly.
- Don't make assumptions about what people can and can't do.
- Ensure that everyone knows who is responsible for doing what and when it must be done.
- Involve the individual in generating solutions and respect their right to confidentiality.

For more detail on the law and making reasonable adjustments contact **Business Disability Forum's Advice Service** on telephone number **+44-(0)20-7403-3020** or by email **advice@businessdisabilityforum.org.uk** or see the Briefing on The Equality Act 2010.

Reasonable adjustments and best practice

85% of employed people who have cancer said how important it is for them to continue work after diagnosis.[5]

Decisions about suitability for employment, promotion or retention are too often based on general assumptions or misconceptions, rather than a factual assessment. This can lead to discrimination against existing or potential employees. The individual facts should always be considered in consultation with the person.

The impact of cancer varies from one person to another, sometimes affecting a person's life prognosis. Employers are advised to talk to the employee and ask them how they would like to be supported in employment.

Managers who work with people who have cancer need to be sensitive to the person, while at the same time exploring what it is about the job that may initially be considered by the person and employer to be problematic.

Consider the skills, abilities and aspirations of each individual and implement appropriate and reasonable support so that everyone can maximise their potential; this can have a positive effect on an organisation as it unlocks different ways of tackling problems and making decisions.

Many adjustments will benefit everyone and may well be simple and inexpensive and therefore make good business sense. Without adjustments, good candidates may not apply for jobs and good employees could be lost. Precise requirements vary from one individual to another. Always ask the person who has cancer what they need.

[5] Macmillan. The rich picture – people of working age who have cancer, 2017 update, p.2, (Accessed 26th January 2018). Figures as per 2015.

Recruitment and selection

You need to make sure that you do not discriminate against an employee who has cancer or who has had cancer in the past.

You also have to make reasonable adjustments during the recruitment process; however, some people who have cancer may not require any adjustments at all.

It is important not to make assumptions about what an applicant can or cannot do. Instead ask applicants about reasonable adjustments as part of the recruitment process.

If you use external recruitment agencies, ask for evidence that they make reasonable adjustments for disabled applicants and work to the standards that underpin this guidance.

Further information on best practice for recruitment and selection is also available from the Government's Disability Confident scheme; for further information, visit: disabilityconfident.campaign.gov.uk or contact **Business Disability Forum's Advice Service** on telephone number +44-(0)20-7403-3020 or by email advice@businessdisabilityforum.org.uk.

Remember it is unlawful to ask questions about health or a disability prior to job offer under the Equality Act 2010 unless the question relates directly to an intrinsic aspect of the role for which the person is applying, or is for the purpose of making reasonable adjustments to the application or interview process.

Questions about disability can still be asked on equal opportunities monitoring forms.

In practice, even if a function is intrinsic to the job, you should ask a question about a disabled person's ability to do the job with reasonable adjustments in place. There will therefore be very few situations where a question about a person's health or disability needs to be asked.

Job descriptions

When drawing up job descriptions and candidate specifications:

- Be specific about what skills are needed and what the job involves.
- Be flexible. Very often minor changes can make a significant difference, e.g. if the person has difficulties with tiredness, consider advertising flexible working hours.
- Concentrate on what is to be achieved in a job rather than on how it is achieved.

Advertising and attracting applicants

When advertising a job:

- Use positive wording like “we welcome applicants with disabilities and long term health conditions” or “being part of Business Disability Forum’s membership highlights our commitment to becoming a disability-smart organisation”.
- Provide a point of contact for people who have questions about the recruitment process.
- Display or mention the Disability Confident symbol if you have signed up to the scheme.
- Be clear that you are willing to make reasonable adjustments.
- Consult your local Jobcentre Plus which can help you make your recruitment process accessible. As well as advising on your recruitment process, Work Coaches and Disability Employment Advisers at Jobcentre Plus will also know of individuals who have or had cancer who may be suitable candidates. Business Disability Forum Members and Partners can contact us for help.

Application forms

Adjustments may need to be made to the application form or short listing process because an applicant may:

- Apply for a job for which they are over qualified because they need to regain confidence.
- Have gaps in their CV due to their long term condition.
- Have gained experience outside of paid employment, e.g. work experience and voluntary work.

Interviews and tests

Ensure that candidates are able to demonstrate their ability to do the job and what they can contribute to your organisation. Focus on the person's abilities, not on the person's medical history. If you have any doubts about a person's ability to do an intrinsic function of the job, simply ask how they would do it.

When you invite applicants for an interview, make sure you ask all candidates if they require any adjustments to be made.

Some adjustments that may be necessary include:

- Being flexible with interview times or dates to accommodate an applicant's medical appointments.
- Allowing a break during an assessment day for an applicant to rest or take medication.

Post job-offer

Once someone has been offered a job, you may need to put in adjustments to ensure they can perform to the best of their ability.

Start getting the adjustments in place as soon as practicable after you have made an appointment – it may take time to set up reasonable adjustments and, in some instances, to secure Access to Work funding.

Consult the individual and make sure the employee's manager or supervisor understands the agreed adjustments. If the individual is comfortable with this, appropriate disability awareness training may be useful for the new starter's colleagues.

Building in regular reviews of adjustments, for example at the end of the probationary period, in supervisory sessions and performance appraisals will help ensure that the adjustments are still effective.

Completing a 'tailored adjustment plan' with new employees who have a disability, long term condition or with an employee who develops one is a good way of recording and reviewing adjustments that have been agreed and actions that will be taken if the employee is off sick.

To see an example of a tailored adjustment plan and to download a template, visit Business Disability Forum's website at businessdisabilityforum.org.uk or contact **Business Disability Forum's Advice Service** on telephone number +44-(0)20-7403-3020 or by email advice@businessdisabilityforum.org.uk.

Ensure that you take the same approach to adjustments when an employee who has or had cancer applies for promotion, again not making assumptions about what the employee can or cannot do.

Working arrangements to retain employees

It is natural for an individual to have a range of feelings and emotions following a cancer diagnosis. These emotions may make it difficult to concentrate or work effectively. You may therefore need to support your employee whilst they are adjusting to this new diagnosis.

It is very important to involve the person concerned when considering or making any reasonable adjustment whether the person has recently been diagnosed, is receiving ongoing treatment or is returning to work after a period of cancer related absence.

This support might include:

- Ensuring the employee has access to an Employee Assistance Programme (EAP) if you have one.
- Provide appropriate disability awareness training for all staff and additional training for line managers so that they are confident and effective in managing disabled employees and making reasonable adjustments.
- A buddying system where an employee who has cancer can talk to someone about any issues they are having at work.

Some employees with cancer, may at times, need time away from work for surgery or treatment or they may have periods where they are too unwell to work.

Employment adjustments for people who have Cancer

When returning to work, some people will be able to proactively manage their own condition and may require few if any adjustments. However, others may need adjustments in order to support their return to work.

These can include:

- Modifying equipment or the work station for people who have mobility difficulties as a result of cancer.
- Allowing extra breaks to help an employee cope with fatigue.
- Moving a work base – for example, transferring to a ground floor office if breathlessness makes it difficult to climb stairs.
- Providing somewhere private for rests or taking medication.

Depending on the nature of the individual's condition and the effects of their treatment people who have cancer may also require changes to their working pattern or job role.

Employment adjustments for people who have Cancer

The adjustments that might be needed include:

- Adjusting performance targets to take into account the effect of sick leave/fatigue etc. on the employee.
- Assistance with a phased return to work, whereby hours are gradually increased over a period of time.
- Modifying a job description to take away minor parts of the job that cause particular difficulty.
- Allowing working from home.

When all possible reasonable adjustments have been considered, if an employee is unable to perform the core duties of their existing role because of a disability, you have a duty to consider redeployment. Transferring the disabled person to fill an existing vacancy should be the final reasonable adjustment you consider.

The adjustments listed above are examples of the type of adjustment a person who has cancer might need; the list is not exhaustive. In order to identify the most appropriate and effective adjustments it's important to speak to an employee about their own individual challenges as every person will have a different experience with cancer.

Managing absences

People who have cancer should not be discriminated against for a reason arising from their disability in the attendance management process.

Whilst some employees will need time off to manage the effects of treatment or for surgery, do not assume that every employee who has cancer will have a high level of sickness absence. They may need the occasional medical appointment or set periods of time off for operations or procedures, however you should be notified of these absences in advance.

Also, an employee who has received a new diagnosis of cancer may need some time off to adjust to what is happening. This type of absence might be categorised as 'Disability Leave' and could be considered as a reasonable adjustment; this time off should be paid if reasonable. Disability Leave is not a legal term; however it can be a useful way of categorising absence.

Employment adjustments for people who have Cancer

You may need to:

- Allow time off to attend appointments for assessment, treatment or rehabilitation.
- Ensure that you have a scheme in place that distinguishes between sickness absence taken for a reason relating to a disability and general sickness absence.[6]
- Ensure that adjustments are made in processes to manage attendance and sickness absence so that disabled employees are not treated unfavourably for a reason arising out of their disability; It might be a reasonable adjustment in some cases to discount some or all disability-related sickness absence.
- Allow the employee to work flexible hours to overcome fatigue from treatment.
- Be understanding. The employee will be much more likely to try to come into work if s/he knows that s/he can take a break or go home if necessary.

[6] Further information on disability leave is available from Business Disability Forum's Briefing on "Managing sickness absence".

Harassment

As an employer, you are ultimately responsible for taking all reasonable steps to deal with harassment.

Harassment includes not only physical or verbal abuse, but also anything which violates a person's dignity or creates an intimidating, hostile, degrading humiliating or offensive environment.

Harassment stems from stereotyping, lack of understanding, intolerance of difference and fear. To prevent bullying and harassment of anyone you should:

- Ensure your organisation has clear policies on workplace bullying and harassment and that complaints are investigated promptly and effectively. Ensure these policies are communicated across the organisation through campaigns and awareness raising initiatives.
- Make it clear that any harassment, including on grounds of disability, will not be tolerated and that offenders will be dealt with through the organisation's disciplinary procedures.
- Ensure management understands that people who have or have had cancer may require workplace adjustments and time off; this may lead to increased risk of harassment. Provide appropriate training for line managers to help them to identify and manage incidents connected to bullying and harassment in the workplace.
- Make the employee aware of their right to equal treatment and their entitlement to make a complaint and to initiate a grievance.
- Allow employees access to support networks internally or externally from work. If possible ensure employees who have experienced bullying or harassment have access to professional and confidential counselling.
- Ensure appropriate disability awareness training is implemented across your workforce to challenge stereotyping.

Further sources of reference

Useful organisations

Business Disability Forum

Nutmeg House, 60 Gainsford Street,
London SE1 2NY

Tel: +44-(0)20-7403-3020

Website: businessdisabilityforum.org.uk

Business Disability Forum (BDF) is a not-for-profit membership organisation that supports businesses to recruit and retain disabled employees and serve disabled customers.

Business Disability Forum provides pragmatic support, expertise, advice, training and networking opportunities between businesses. Our aim is to transform the life chances – and experience – of disabled people as employees and consumers.

Macmillan Cancer Support

89 Albert Embankment,
London, SE1 7UQ

Tel: +44(0)808-808-00-00

Website: macmillan.org.uk

Macmillan Cancer Support is one of the largest British cancer charities. They aim at improving the lives of people living with cancer by providing information and support, including to employers.

Business Disability Forum would like to gratefully acknowledge the help of Macmillan Cancer Support in consulting with us on the advice and guidance included in this Briefing.

Cancer Research UK

Angel Building,
407 St John Street,
London, EC1V 4AD

Tel: +44(0)20-7242-0200

Email: support.services@cancer.org.uk

Website: cancerresearchuk.org

Cancer Research UK is a cancer research and awareness charity. They fund research but also develop policy to inform government decisions related to cancer and research.

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