

Briefing

Employment adjustments for people with HIV or AIDS

Abridged content for sample purposes

Employment adjustments for people with HIV or AIDS

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

The Human Immunodeficiency Virus (HIV), as defined by its name, is a virus that weakens the immune system.

It does so by attacking a certain type of immune system cell, called CD4 or T cells, which have an essential role in fighting infections and diseases. The virus is found in blood, semen, breast milk and vaginal and anal fluids. HIV cannot be transmitted through sweat, saliva, breath or urine.

As per 2017, more than 93,000 people are diagnosed with HIV in the UK and it is estimated that around 8,000 people in the UK are undiagnosed.[1]

There is currently no cure for HIV. However anti-retroviral treatment (ART) is now so effective it means that people who are living with HIV have the same life expectancy as the general population and the virus can be suppressed to the point that it cannot be passed on.[2]

Acquired Immune Deficiency Syndrome (AIDS) is the most advanced stage of the HIV infection, when someone has HIV and an “AIDS-defining” disease. Life-threatening conditions can develop when the immune system can no longer fight them. Very few people in the UK develop AIDS – in 2016, there were only 278 AIDS diagnoses.[3]

[1] Progress towards ending the HIV epidemic in the United Kingdom, Public Health England, November 2018 [accessed December 2018]

[2] Progress towards ending the HIV epidemic in the United Kingdom, Public Health England, November 2018 [accessed December 2018]

[3] Progress towards ending the HIV epidemic in the United Kingdom, Public Health England, November 2018 [accessed December 2018]

Employment and people with HIV or AIDS

The vast majority of people with HIV have no problems at work. The employer may not even be aware that they have HIV or AIDS.

However for some people a few minor adjustments could be needed. Adjustments will vary from one individual to another as their condition affects them differently.

People who have HIV or AIDS are protected under the Equality Act 2010 from the point of diagnosis but may not consider themselves to be disabled. Nevertheless employers have a legal obligation to make reasonable adjustments and not discriminate against employees who might be facing barriers at work because of a disability or long-term condition – even if it has not been diagnosed as a disability or accepted as such by the individual.

To access reasonable adjustments, an employee must tell their employer that they are living with HIV. Many people living with HIV will choose not to tell their employer about their HIV, because they do not feel it is relevant to their job and they do not require any adjustments. However, some people will require adjustments but not want to tell their employer about their HIV because of concerns around confidentiality.

Employers should be aware that non-visible disabilities such as HIV might mean that specific barriers can be less obvious. This means adjustments may be harder for employers to determine and put in place. There are organisations which offer specialist advice and disability awareness training to help employers ensure that their recruitment process accounts for barriers faced by those with HIV or AIDS – see page 21 for further details.

Employment adjustments for people with HIV or AIDS

People can acquire HIV during the course of their employment. Managers need to be able to respond sensibly to individuals who have recently been diagnosed.

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

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. Remember:

- 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

The majority of people with HIV are people of working age, with 13.18% of people aged 25-34, 45.06% aged 35-49 and 33.06% aged 50-64.[4]

You may:

- Have people living with HIV applying for jobs.
- Be managing existing employees who have HIV but have not told you about their condition.
- Be managing the retention of those who are experiencing symptoms or treatment side-effects, and are able to continue working.
- Have employees who are unaware they have HIV, because they have not been tested.

Many employees who have HIV do not require any adjustments, but simply require a positive attitude by their employer, backed up by an effective policy on HIV. Where adjustments are needed they may well be simple and inexpensive and make good business sense.

Without adjustments, good candidates may not apply for jobs and good employees could be lost. Precise requirements will vary from one individual to another but may include things like time off to attend hospital and clinic appointments, flexibility in working hours and the request to work at home occasionally. Always ask the person what they need.

[4] Progress towards ending the HIV epidemic in the United Kingdom, Public Health England,, November 2018 [accessed December 2018]

Multi-national organisations

36.7 million people globally are living with HIV.^[5] For organisations that have employees in countries where HIV is more widespread, the business case for best practice on HIV may be even stronger as a sizeable number of employees may have HIV.

You will need to have a separate HIV policy and respond to the economic impact and the welfare of employees in certain countries. You may want to consider partnerships with local governments and educate employees about the risk of HIV.

As your organisation builds its knowledge on HIV in one country, you will be able to use this learning for the benefit of your business worldwide.

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. 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.

[5] UNAIDS, 2016 figures [accessed May 2018]

Recruitment and selection

Candidates with HIV may be prevented from demonstrating their abilities and potential by conventional recruitment processes.

You need to make sure you do not discriminate against a disabled job applicant during the recruitment process. You may also have to make reasonable adjustments. It is important not to make assumptions about what the applicant can or cannot do; instead, ask applicants about reasonable adjustments they may require during 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.

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. reallocating an inessential task that a candidate with HIV or AIDS finds difficult to someone else in the team.
- Do not needlessly exclude someone with HIV or AIDS. 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 disabled applicants” or, for Partners and Members of BDF: “We are a Member of Business Disability Forum and committed to becoming a disability-smart employer’.
- Provide a point of contact for people who are concerned about the recruitment process, using a range of contact methods, e.g. email and telephone.
- Display or mention the Disability Confident symbol if you 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 may also know of individuals with HIV or AIDS who may be suitable candidates. Business Disability Forum Members and Partners can contact us for help.

Content has been removed for sample purposes. Pages 11 to 22 are available in the full booklet.

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