

Information for Employees

IIH is a diverse condition which can affect people in the workplace in many different ways. Treatments and attacks of acute symptoms vary greatly between patients. Employees with IIH may need reasonable adjustments to their daily working routine; these adjustments could include changing your working hours or providing equipment to help you do your job, including adaptations to computer screens if vision is affected. If people with IIH suffer from photophobia, they may need lighting altered. They may also need concessions for certain medications, i.e. diuretics.

Occupational Health can help recognise any reasonable adjustments needed and work with you to implement these changes. Your employer must make certain changes, known as 'reasonable adjustments' to make sure you're not substantially disadvantaged when doing your job. These could include changing your working hours or providing equipment to help you do your job.

See www.fitforwork.org/blog/the-role-of-occupational-health/ for more information.

IIH can cause problems with spatial awareness and depth perception. People with IIH can also have difficulties with stairs and escalators. Outdoors, judging the depth of curbs and the speed of traffic can be difficult. Often there are problems with concentration and short-term memory. Many people with IIH develop strategies to cope with these, but may benefit from having messages and instructions written down or taped so they can play them back. It's important the supervisor or manager understands how the person's symptoms affect them and are supportive. Employees may need to be reminded about deadlines.

There may be certain times of day when symptoms are worse. Employers can help by allowing employees with IIH to work more flexible hours, or depending on the job, possibly working from home sometimes if traveling is difficult because symptoms are severe.

Vision loss is reported in up to 25% of patients so it is very important that employees with IIH are allowed time off to attend hospital appointments with neurologists and for ophthalmic follow-up.

Your Rights as a Worker

Under the Equality Act 2010 you have extensive rights as a disabled person and also as a worker. You can read about these on the Equality & Human Rights Commission website here:

<https://www.equalityhumanrights.com/en/advice-and-guidance/guidance-workers>

Equality Act 2010 states – a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities

For the purposes of the Act, these words have the following meanings:

- 'substantial' means more than minor or trivial
- 'long-term' means that the effect of the impairment has lasted or is likely (more likely than not) to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- 'normal day-to-day activities' include everyday things like eating, washing, walking and going shopping
- People who have had a disability in the past that meets this definition are also protected by the Act.

For more guidance on the definition of disability in relation to employment visit:

http://www.direct.gov.uk/en/DisabledPeople/EmploymentSupport/YourEmploymentRights/DG_4001073

However, those about to apply for work have **even more special rights** and these are detailed below:

Equality Act 2010: Questions about health or disability – mandatory rules for employers

Except in very restricted circumstances or for very restricted purposes, employers

are not allowed to ask any job applicant about their health or any disability until the person has been:

- offered a job either outright or on conditions, or
- Included in a pool of successful candidates to be offered a job when a position becomes available (for example, if an employer is opening a new workplace or expects to have multiple vacancies for the same role but doesn't want to recruit separately for each one).

This includes asking such a question as part of the application process or during an interview. Questions relating to previous sickness absence count as questions that relate to health or disability.

No-one else can ask these questions on an employer's behalf either. So they cannot refer an applicant to an occupational health practitioner or ask an applicant to fill in a questionnaire provided by an occupational health practitioner before the offer of a job is made (or before inclusion in a pool of successful applicants) except in very limited circumstances, which are explained next.

The point of stopping employers asking questions about health or disability is to make sure that all job applicants are looked at properly to see if they can do the job in question, and not ruled out just because of issues related to or arising from their health or disability, such as sickness absence, which may well say nothing about whether they can do the job now.

Employers can ask questions once they have made a job offer or included someone in a group of successful candidates. At that stage, you could make sure that someone's health or disability would not prevent them from doing the job. But you must consider whether there are reasonable adjustments that could be made to enable them to do the job.

What happens if an employer asks questions about health or disability?

A job applicant can bring a claim against an employer if:

- the employer asked health - or disability-related questions of a kind that are not allowed, and
- the applicant believe there has been unlawful discrimination as a result of the information that they gave (or failed to give) when answering such questions.

The Equality and Human Rights Commission can **also** take legal action against an employer if they ask job applicants any health - or disability-related questions that are not allowed by equality law. This includes sending them a questionnaire about their health for them to fill in before they have offered you a job.

When is an employer allowed to ask questions about health or disability?

An employer can ask questions about health or disability when:

They are asking questions to find out if any applicant needs reasonable adjustments for the recruitment process, such as for an assessment or an interview.

For example:

- an application form states: 'Please contact us if you need the application form in an alternative format or if you need any adjustments for the interview'. This is allowed.

They are asking questions to find out if a person (whether they are a disabled person or not) can take part in an assessment as part of the recruitment process, including questions about reasonable adjustments for this purpose.

For example:

- an employer is recruiting play workers for an outdoor activity centre and wants to hold a practical test for applicants as part of the recruitment process. The Employer asks a question about health in order to ensure that applicants who are not able to undertake the test (for example, because they are pregnant or have an injury) are not required to take the test. This is allowed.
- an employer is asking the questions for monitoring purposes to check the diversity of applicants.

They want to make sure that an applicant who is a disabled person can benefit from any measures aimed at improving disabled people's employment rates.

For example:

- the guaranteed interview scheme. The employer must make it clear to job applicants that this is why they are asking the question.

They are asking the questions because having a specific impairment is an occupational requirement for a particular job.

For example:

- an employer wants to recruit a Deaf blind project worker who has personal experience of Deaf blindness. This is an occupational requirement of the job and the job advert states this.

The employer can ask on the application form or at interview about the applicant's disability.

- where the questions relate to a requirement to vet applicants for the purposes of national security.
- where the question relates to a person's ability to carry out a function that is intrinsic, or absolutely fundamental to that job.

Where a health, or disability related question would mean they would know if a person can carry out that function with reasonable adjustments in place, then they can ask the question.

For example:

- a construction company is recruiting scaffolders. The employer can ask about health or disability on the application form or at interview if the questions relate specifically to an applicant's ability to climb ladders and scaffolding to a significant height as the ability to climb ladders and scaffolding is intrinsic or fundamental to the job.

In practice, even if a function is intrinsic to the job, an employer 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.

Most of the time, whether on an application form or during an interview, an employer can ask a question about whether someone has the relevant skills, qualities or experience to do the job, not about their health or about any disability they may have.

For example:

- an employer is recruiting a person as a cycle courier. They ask applicants

to send in a CV setting out their relevant experience and a covering letter saying why they would be suitable for the job. The employer will score candidates on their experience of and enthusiasm for cycling. It is not necessary to ask applicants questions about health or disability. If the employer considers a health check is necessary, for example, for insurance purposes, this can be carried out once an applicant has been offered the job, and the job offer can be made conditional on the health check.

Help that may be available

Financial assistance for employers may be available to help towards the extra costs of employing someone with a disability or long term illness. The Access to Work programme is administered by the Employment Service's Disability Service Team. To find out more about the programme and how to apply for support, contact your local Jobcentre Plus or visit the website:

http://www.direct.gov.uk/en/DisabledPeople/Employmentsupport/WorkSchemesAndProgrammes/DG_4000347

I want to know
more about
Employment
rights

Further information can be found at:

www.acas.org.uk

<https://www.gov.uk/browse/disabilities/work>

<https://www.equalityhumanrights.com/en/multipage-guide/employment-workplace-adjustments>



This leaflet was written by the IIH UK Trustees. It was critically reviewed by the IIH UK Team. Clare Parr is responsible for this version. The views expressed in this leaflet are of the authors. Please note we have made every effort to ensure the content of this is correct at time of publication, but remember that information may change. This information booklet is for general education only.

Version 1 (August 2019). Review end August 2021.

Registered Charity in England and Wales 1143522 and Scotland SCO43294