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WORK HEALTH ASSESSMENTS

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INTRODUCTION

What is a work health assessment?

A work health assessment refers to a variety of processes undertaken by employers to health screen staff to assess whether they are capable and fit to undertake a particular role. Its primary purpose is to help prevent work-related illnesses, injuries and the spread of disease or infection.

The extent of any health assessment will be dependent on the requirements and risks associated with any given role which impact on the health and wellbeing of either the individual carrying out that role and/or any patients they may have contact with.

Importance of a work health assessment

Employers have a duty of care to their employees to ensure that they, and their workplaces, are safe and healthy in line with health and safety obligations and equality law. Work health assessments have an important role in helping employers identify and consider early on, any health condition or disability that may require:

- adjustments being made to the workplace to enable the individual to safely carry out the duties they have been engaged to carry out.
- restrictions being placed on their duties, for example, exposure prone procedures (EPPs) for workers who have a blood borne virus which may impact on patients in their care. The UK Advisory Panel for HCWs living with BBVs [has specified in a statement](#) that all staff planning on undertaking exposure prone procedures must undertake health clearance before doing so, without exception.

MINIMUM REQUIREMENTS

When carrying out a work health assessment, employers must consider the requirements of the Equality Act. Section 60 of the Act describes the specific circumstances under which employers can legally ask questions about an applicant's health or disability prior to making an offer of appointment. This applies regardless as to whether the offer is conditional or unconditional.

It also places a duty on employers to consider any reasonable adjustments (as far as practical) to ensure that people with disabilities are not disadvantaged during the recruitment process and, are treated fairly when considering working arrangements and the working environment.

Who to check and when

A health assessment should be carried out for all individuals applying for NHS positions, including all directly paid employees, temporary workers (supplied by an agency or any other external contractor), students, trainees and volunteers.

This includes when:

- an individual first takes up their position (whether or not this is preceded by a period of training).
- a member of staff moves to a new job with a different NHS organisation (see the streamlining section below).
- an existing member of staff is returning to work following a serious injury or illness and there is a need to assess whether they can safely return to their normal duties. Any assessment will need to be proportionate to the risks associated with the type of activities they will be required to undertake as part of their normal role.
- an existing member of staff moves to a different job within the same organisation and this significantly changes the nature of the work they will be undertaking for example, they are required to carry out exposure prone procedures (EPPs) for the first time or the environment they will be working in.

Assessments should take place after an offer of appointment (regardless as to whether this is a conditional or unconditional) but prior to the commencement of their employment/placement or training, except for individuals on work experience.

It is unlawful for employers to ask applicants to complete a pre-employment health questionnaire or to ask questions as part of their application or interview process, for any reason other than the exceptional circumstances outlined within the Equality Act. Further details on the Equality Act can be found in appendix one.

Employers must make it clear to successful applicants that any offer of employment is conditional pending the completion of pre-appointment checks, including a relevant health assessment.

All health assessments must be carried out fairly, objectively and in accordance with equal opportunities legislation and good occupational health practice.

Agency/external contractor requirements

If a worker is supplied by an agency or other external contractor under a framework agreement, the work health assessment may be undertaken by a [Safe Effective Quality Occupational Health Service \(SEQOHS\)](#) accredited occupational health provider.

Employers should ensure that agencies are clear about what level of clearances, (including vaccination requirements) are required for different positions to avoid any unnecessary delays in making appointments. Written confirmation should be obtained from the agency to confirm that they have carried out an appropriate assessment, the worker is fit to start work, and what, if any, reasonable adjustments need to be considered.

Employers will only be required to carry out a further work health assessment on agency workers if there has been a significant change to the nature of work and/or working environment, or if there are changes to the worker's health, as described in the section above.

Streamlining

NHS Employers' streamlining programme aims to help organisations implement effective HR processes for all NHS to NHS staff transfers, minimising the time it takes to employ staff.

It is important to ensure as part of the 'who to check and when' question that any work health assessment is proportionate to risk. While the assessment process and initial employer statement below should always be asked, employers may wish to check information retained about the individual on their Electronic Staff Record (ESR) to avoid any unnecessary duplication of immunisation/vaccination requirements.

Further information about the streamlining programme can be found on the [NHS Employers website](#).

The assessment process

The following two statements provide some suggested wording for employers to include in a separate form which can go out alongside the conditional letter of employment.

The offer letter should advise the applicant to complete the form and return this to the occupational health department.

Employers should invite all prospective employees to tick which one of the following two statements apply to them.

A	I am not aware that I have a health condition or disability that might impair my ability to undertake effectively the duties of the position that I have been offered.
B	I do have a health condition or disability that might affect my work and may require special adjustments to my work or my place of work.

In all cases, it will be for the occupational health practitioner (or other suitably trained professional depending on local protocol) to ascertain whether there are any additional requirements or reasonable adjustments, that should be considered to ensure the safety and wellbeing of the worker and/or any patients they may be providing services to/or will have contact with.

In more difficult or complex cases, successful applicants may need to be assessed by the occupational health service.

Occupational health will then process this information and send a clearance certificate to human resources to confirm the following:

- the individual can start work
- the individual can start work with reasonable adjustments being made – this will also include recommendations outlining what adjustments may need to be considered

- any immunisation and/or EPP clearance (where applicable to the role).

If no recommendations have been made, the process should end at this point, and the appointment decision confirmed with the applicant.

Risk assessment

In addition to their duty of care to employees, employers are legally required to undertake the necessary assessments to effectively manage any risks to the health and safety of employees, patients and others on their premises, under the Health and Safety Act. A risk assessment should:

- identify any hazards that exist in a workplace
- assess how likely these hazards are to cause harm to workers, patients and others on the premises
- identify any preventative or control measures that will need to be considered.

For more information on managing risk visit the health and safety section of the [NHS Employers website](#).

Considering reasonable adjustments

The Equality Act outlines a series of provisions which place a duty on employers to make reasonable adjustments for job applicants or employees who have a disability.

The aim of making reasonable adjustments is to reduce as far as possible, any significant disadvantages that may be presented to an individual with a disability that would not affect an able-bodied person. This may include reviewing how the employment is structured, removal of physical barriers or providing additional support to the individual, such as:

- making practical adjustments to the premises
- altering the person's working hours
- allowing absences during working hours for medical treatment
- giving additional training
- providing special equipment or modifying existing equipment
- changing instructions or reference manuals
- providing additional supervision and support.

In most cases, adjustments will be easy and inexpensive to implement. Further information about the factors employers will need to consider can be found in appendix one. Additional guidance on making reasonable adjustments can be found on the [Equality and Human Rights Commission website](#).

Access to Work Scheme

Employers may also wish to consider the Access to Work Scheme to help them decide what steps they might need to take. In some cases, financial assistance is made available through the scheme which will help the employer take steps which may have otherwise been unreasonably expensive to consider.

Further information about Access to Work can be found on the [GOV.UK website](#).

ADDITIONAL CONSIDERATIONS

Immunisations: requirements for healthcare workers

Employers have an obligation to ensure that healthcare workers do not pose a risk of infection to patients. Similarly, it is essential to ensure that staff are protected from infection by patients.

The requirements to ensure immunisation against common communicable infections and biological hazards will be dependent on an individual's role in the workplace and the risks of exposure that their role may pose.

Employers will need to refer to the [Department of Health and Social Care's Green Book](#) which sets out the standards that determine which vaccinations are required for different healthcare workers.

In August 2021, the government announced that staff entering care homes must be vaccinated for COVID-19 to enter the care home. Further information on this and what employers need to do to check vaccination status of staff who will be deployed into care homes can be found on the [NHS England and Improvement website](#) and in operational guidance published by the [Department for Health and Social Care](#).

Health professionals and immunisation practitioners can register to receive a [vaccine update from Public Health England](#) on vaccination requirements.

Further information relating to infectious diseases and their prevention can also be found on the [NICE website](#).

Exposure prone procedures

Additional screening may be needed for workers involved in exposure prone procedures (EPPs), patient care, patient contact or body fluid sample handling. This screening should be relevant to the job hazard and risk profile and, must be undertaken in accordance with the relevant guidance.

Individuals carrying out EPPs have a professional duty to ensure that they are tested and assessed for HIV, hepatitis B and hepatitis C. If at any time they should acquire or be at risk of acquiring any of these infections, they must refrain from carrying out any work that involves an EPP and inform (in confidence) a member of their occupational health team. All testing must be carried out with the professional's informed consent.

Additional screening

Employers have the discretion to undertake further supplementary screening, dependent on their local needs and risks associated with different roles. Additional screening must be carried out in accordance with the Equality Act.

Further guidance about supplementary health screening can be found on the health and wellbeing section of the [NHS Employers website](#).

DECISION MAKING

Occupational health has a duty to provide specialist and confidential advice to both the prospective employee and the employer.

The decision to appoint an individual ultimately sits with the recruiting manager, therefore they will need to ensure that:

- the health clearance process has been completed and all relevant information has been considered
- a risk assessment has been carried out to identify any reasonable adjustments that may need to be considered for the post
- advice has been sought from all the relevant departments such as, HR, occupational health, and health and safety in relation to ensuring all reasonable adjustments have been fully considered and, where appropriate can be put in place.

If the recruiting manager chooses to appoint an individual, despite concerns being expressed by the occupational health service, the manager will need to record their justification for any such decision.

Withdrawal of appointment

No applicant should be refused employment on health grounds unless:

- expert occupational medical advice has been sought
- the applicant has had the opportunity to discuss issues raised with an occupational health professional, or
- the employing manager has given full consideration of the facts.

Retaining and transferring health records

Health assessment information should not form part of a worker's personnel record for reasons of confidentiality but should be retained separately on their electronic staff record in line with data protection requirements (as amended by the General Data Protection Act 2018), or other personnel record system only accessible by the occupational health service. However, it is permitted for reports or summaries to be held on an individual's personnel record, where this has been agreed with the individual.

Employers should refer to Records management code of practice for health and social care issued by the Information Governance Alliance which can be found on the [GOV.UK website](https://www.gov.uk).

Further useful information

On the [NHS Employers website](#) you can find information, guidance and resources on sickness absence, protecting staff, preventing ill health and implementing health and wellbeing strategies.

NHS Health at Work is a network of occupational health teams offering advice, influencing and advising government and other bodies on occupational health in the NHS. For further information, visit the [NHS Health at Work website](#).

APPENDIX 1: SECTION 60 OF THE EQUALITY ACT 2010

This appendix covers the provisions under section 60 of the Equality Act only.

A full copy of the Act can be found on the [legislation.gov.uk website](https://www.legislation.gov.uk).

Further guidance about the disability provisions and employer responsibilities under the Equality Act can be found on the [Equality and Human Rights Commission website](https://www.equalityhumanrights.com).

The purpose of section 60

Section 60 of the Equality Act came into force in October 2010. Its key purpose is to prevent disability or health information being used to disadvantage applicants without first giving them the opportunity to show that they have the skills and experience to carry out a role. It outlines when and what information can be sought as part of the recruitment process regarding an applicant's health or disability.

It also places a duty on employers to consider all adjustments (as far as is reasonably practical) to ensure that applicants who have a disability are not unfairly disadvantaged or discriminated against when being considered for a role.

Prohibited questions

Section 60 prohibits any questions being posed by/or on behalf of an employer about an applicant's disability and health prior to making a job offer. This is regardless as to whether the offer is conditional or unconditional.

This restriction relates to any questions that might require the disclosure of information about an applicant's disability or health as part of:

- an application for a position
- the interview process
- a reference request.

The Act outlines the exceptional circumstances where employers may ask health-related questions earlier in the recruitment process. These are described in more detail below.

When obtaining references, employers should refer to guidance provided in the [Employment history and reference check standard](#). This standard provides useful template forms which outline the type of questions that may legally be asked as part of a reference request.

Exceptional circumstances

There are a number of exceptional circumstances where it would be acceptable for an employer to ask an applicant health-related questions prior to issuing an appointment offer.

These circumstances include where:

- **Ascertaining what reasonable adjustments may be necessary as part of the interview process.** Any questions should focus on identifying any special needs the applicant may have to enable them to have ease of access to the building or interview room and/or in order for them to carry out any required assessment(s) that form part of the interview process.
- **Ascertaining if the applicant can carry out a specific function which is intrinsic to the role they are applying for.** Any questions should be relevant to the position being offered and focus on identifying whether any reasonable adjustments need to be considered to enable the applicant to carry out certain aspects of the role. For example, Mary is applying for a position as a nurse on an elderly ward. The role will quite often require her to assist in lifting and physically supporting patients. In this instance it would be acceptable for the employer to ask Mary questions to ascertain whether she has a disability or any health issues which may restrict or prevent her from carrying out these duties safely without putting either herself or patients at risk of harm.
- **Taking positive action to help people with disabilities.** For example, this might include asking targeted questions in order to assess whether applicants may benefit from any schemes or measures that are intended to help people with disabilities to gain meaningful employment. The purpose of any such questions must be made clear to the applicant from the outset.
- **There is a legitimate occupational requirement for a person with a specific disability or impairment.** Any questions asked should be focused on helping the employer identify if applicants meet those requirements. As above, the purpose of the questions should be explained to applicants from the outset.
- **Monitoring diversity.** Any data obtained as part of any monitoring process should be collected and recorded separately from application information.

Duty to make reasonable adjustments

The duty for employers to make all reasonable adjustments is intended to reinforce the importance of taking positive steps to ensure that people with disabilities have equal access to and can progress in employment. This goes beyond simply avoiding treating workers or applicants with a disability less favorably than those who do not. It outlines an employers' responsibility to consider additional steps that workers and applicants who are not disabled would not be entitled to.

This duty comprises of the following three requirements:

1. **Removing any employer provision or practice** that is likely to put a worker or applicant with a disability at a significant unfair disadvantage compared to those who are not disabled. For example, this would include any policies, rules, arrangements, conditions, criterion or pre-requisites which cannot be objectively justified. It also includes any decisions to introduce any such provisions in the future, as well as one-off or discretionary decisions.
2. **Removing or altering a physical feature or providing a reasonable means of avoiding such a feature** (either permanently or temporarily) where it puts a worker or applicant with a disability

at a substantial disadvantage compared to those who are not disabled. The Act defines this as any:

- feature of the design or construction of a building
- feature of the approach to or the entrance/exit from a building
- equipment, fixture, fitting, furniture, furnishings, materials in or on the premises
- other physical element or the quality of the premises.

A physical feature may include (but is not exclusive to) steps, stairways, curbs, paving, parking areas, building entrances and exits (including emergency escape routes), internal and external doors, gates, toilet and washing facilities, lighting and ventilation, lifts and escalators, floor coverings, signs, furniture and temporary or moveable items.

- 3. Provide an auxiliary aid or service** where a disabled person would, if it wasn't for the provision of that auxiliary aid or service, be put at a substantial disadvantage compared to those who are not disabled. For instance, this might include providing information in an accessible format, for example, providing letters, training materials or recruitment forms in Braille or on audio-tape.

Reasonable steps

Ultimately, the test of what might be considered reasonable falls to the employer. This should be assessed on a case by case basis and will depend on what effective and practical adjustments may be made to help an individual overcome a disadvantage based on the size of the organisation and the resources made available to it.

In many cases, there will be little, or no cost or disruption associated with making the necessary adjustments. Even where there is a significant cost attributed to making an adjustment, it may still prove to be cost-effective compared to having to recruit and train a new member of staff.

Employers should take the following factors into account when determining what might be deemed as a reasonable step to take.

- How practical is it?
- How effective will it be in preventing the substantial disadvantage?
- How much will it cost to put in place?
- Will it cause any disruption to services and if so, to what extent?
- What financial or other assistance might be available to make the necessary adjustments (for example, through Access at Work)?

Failure to comply with the duty

The Act does not permit an employer to justify a failure to comply with the duty to make a reasonable adjustment.

An employment tribunal will only find an employer in breach of this duty if they consider the adjustment in question to be one that would be reasonable for them to make.

Where the duty applies, the question of reasonableness determines whether the adjustment will need to be made.

An employer will be committing unlawful discrimination if it does not comply with the duty to make reasonable adjustments and a disabled worker may have the right to make a claim to the employment tribunal based on this.

NHS Employers

NHS Employers is the employers' organisation for the NHS in England. We help employers to develop a sustainable workforce, improve staff experience and be the best employers they can be.

Our practical resources and expert insights help make sense of current and emerging healthcare issues, to keep employers up to date with the latest thinking and ensure they are informed and equipped to support the NHS workforce.

We generate opportunities to network and share knowledge and we actively seek the views of workforce leaders to make sure their voice is front and centre of health policy and practice.

We also lead the national collective relationships with trade unions on behalf of the NHS and the Secretary of State for Health and Social Care.