

HR FAQ - can I ask questions about health during recruitment?

Written by Katherine Connolly

Monday, 12 September 2011 12:42 - Last Updated Tuesday, 16 April 2013 11:32

Since the implementation of the Equality Act in October 2010, it is illegal to ask questions about an applicant's health prior to a post being offered. This means that application forms, pre-employment health questionnaires and interview question sets are all affected and should be checked to ensure that they comply with the Equality Act. Here are the answers to some frequently asked questions around asking questions about people's health while recruiting.

Q. Does this mean we can't ask a candidate anything at all about their health before making them an offer?

You are permitted to ask pre-offer health questions in order to:

- establish whether the candidate is fit to undergo an assessment or making adjustments to allow the candidate to undergo an assessment e.g. establishing if adjustments need to be made for a partially sighted candidate to sit a written test.
- establish if the candidate can carry out a task or function which is intrinsic to the work concerned e.g. for a driving/delivery job whether he/she is fit to drive and unload deliveries. You must ensure that questions are relevant to the role.
- monitor diversity in the workplace, i.e. via an equality monitoring form.

Q. Can applicants be asked in the application form to give a Yes/No answer to whether they have potential health issues?

No. It is illegal to ask questions about an applicant's health prior to conditional offer of a post.

Q. Is it possible to ask candidates if they have disabilities that require special arrangements at interview?

Yes. You should ask them in the letter of invitation to interview. Ask applicants to tell you this on a separate document or using a covering letter that does not contain any information relevant to deciding whether to take their application further.

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Q. Are we still able to ask about disability in equality monitoring questions?

Yes but you must ensure that equality monitoring forms are kept separate from the candidate's application form and the information provided is only used for monitoring purposes.

Q. Can we still ask about sickness absence in application forms?

No this is illegal as it is seen as asking about health or disability by another route.

Q. Can we still ask about sickness absence in reference requests?

Provided that references are obtained after the conditional offer of a post you are able to ask about sickness absence history.

Q. Can an employer ask health questions once a job offer, including a conditional offer, has been made and possibly require applicants to undergo medical assessment?

Yes. The Equality Act 2010 does not place restrictions on what can be asked once the offer of a job has been made. You can still make an offer conditional on the basis of receipt of a satisfactory medical report, just as you would do with satisfactory references.

Q. If we find that the applicant is not fit for the role, due to their health, once we have made a conditional offer, what should we do?

In the first place you should attempt to make reasonable adjustments in accordance with the

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Disability Discrimination Act (DDA). If this is not possible and you believe you have justification for doing so you may withdraw the offer of employment.

For answers to other recruitment-related questions or more information about what you can and can't ask people before you employ them, [contact us](#).