

Equality Act

From 1st October 2010 the Equality Act came into force. The purpose of this legislation was to harmonise current discrimination law and strengthen the law. This means that the DDA is obsolete.

The changes in this legislation effectively mean that:

- Employers cannot ask prospective employees to complete a Pre-employment Health Questionnaire until they have got a written job offer. OH Providers who send out questionnaires on their clients behalf can also be held liable if they send such a questionnaire prior to the job offer being made.
- Health Questions can only be asked prior to the job offer if:
 - They are to make reasonable adjustments as part of the selection process e.g. if the interview is on the first floor with no lift it is reasonable to ask if they have a health problem that would prevent them using the stairs so that the interview for this person could be carried out on the ground floor.
 - To decide whether an applicant can carry out a function that is essential to the job
 - Monitor diversity
 - Take positive action to assist a disabled person
 - Assure yourself that a candidate has the disability where the job genuinely requires the jobholder to have a disability
- The 'protective characteristics' e.g. disability, age, race, sex have same definitions of discrimination. With regard to disability there are some changes and some things that remain the same:
 - The Same- Direct Discrimination i.e. someone is treated less favourably because of their disability
 - The New Items- Discrimination by association i.e. someone is treated less favourably because they associate with another person who has a disability; Discrimination by perception i.e. someone is treated less favourably because others think they have a disability; Indirect Discrimination i.e. the employer has a rule or policy that applies to everyone but disadvantages an employee with a disability; Harassment by a third party i.e. an employee is harassed by someone at work who is not another employee e.g. client, contract worker etc.
 - The Changes: Harassment i.e. employees can complain of behaviour they find offensive even if it is not directed at them and Victimisation i.e. someone is treated unfairly when they have made or supported a complaint under the Act
- The definition of disability remains the same under the Equality Act.

There are some very helpful guides regarding this some are more lengthy than others. Please see the attached ACAS guide. There is also a lot more information on the Equality Human Rights website www.equalityhumanrights.com . There is even a little introduction video.

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