

P.A.D. IN THE WORKPLACE

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Primary Antibody Deficiency (PAD) is a relatively rare set of medical conditions that varies in its impact from person to person and for which there is currently no known cure.

Once diagnosed, and appropriately treated for their condition, many people will be no more unwell than the general population. However, the question of what to tell potential and current employers, about this health disorder and how to complete the parts of application forms that relate to health is something which many people struggle with. This leaflet aims to help guide your decision about this if you consider yourself to be disabled as defined in Section 6 of the Equality Act 2010 (The Act).

Pre Employment

When employers are recruiting they must ensure that the selection process does not discriminate against disabled applicants. The Act prohibits discrimination against people with a disability; these people are protected from discrimination in a “range of circumstances, covering the provision of goods, facilities and services, the exercise of public functions, premises, work, education and associations.”

Section 60 of the Act outlines when employers are permitted to ask questions in relation to disability during the recruitment process. Questions can be asked to:

- Establish whether you will be able to “comply with a requirement to undergo an assessment or establishing whether a duty to make reasonable adjustments is or will be imposed”
- Establish whether you will be able to “carry out a function that is intrinsic to the work concerned” subject to reasonable adjustments.
- “Monitor diversity in the range of persons applying for work” within the organisation
- Establish if you have a particular disability whether the work applied for has a “requirement to have a particular disability”

Do I have to tell an employer that I have a PAD and that I consider this to be a disability on my application form or during the interview?

If you do not require reasonable adjustments within the recruitment process you do not need to declare yourself as disabled or answer any questions relating to disability unless they fit within these parameters.

Some employers have signed up to the Jobcentre Plus Two Ticks Scheme. This means that they guarantee to interview “all disabled applicants who meet the minimum criteria for a job vacancy and to consider them on their abilities”. In this circumstance you may feel it would be of benefit to declare yourself as having a disability in your application.

When can an Employer ask about your medical history?

Section 60 (1) of the Act outlines that an employer must not ask about the health of an applicant before offering work or before placing the applicant into a pool of candidates waiting for a position to become available. Employment offers can be made subject to checks into your health and the employer can ask you for details of your medical conditions at this point.

Declaring Medical Information

Once you have declared to an employer that you are disabled, or have given an employer details of your medical conditions, you may be referred to an Occupational Health Provider. This service will be able to advise your prospective or current employer on your health conditions and how this may affect you in the workplace. They can also recommend any reasonable adjustments an employer should consider to enable you to fulfil the duties required in your role.

If you choose not to declare your disability or medical conditions, an employer would not have a duty to make reasonable adjustments in the workplace and you would not be able to invoke your rights for protection from discrimination under the Act.

Reasonable Adjustments

The Guide to Reasonable Adjustments states that *“The duty to make reasonable adjustments arises in three situations: where a provision, criterion or practice applied by or on behalf of the employer, where a physical feature of premises occupied by an employer, or where the lack of an auxiliary aid places a disabled person at a substantial disadvantage compared with people who are not disabled.*

An employer has to take such steps as it is reasonable to take in all the circumstances to avoid that disadvantage – in other words the employer has to make a ‘reasonable adjustment’”.

Reasonable adjustments need to be just that - reasonable. The Equalities and Human Rights Commission suggest that when you are considering what adjustments your employer may be able to make, you take into account *“how effective the change will be in avoiding the disadvantage that you would otherwise experience, its practicality, the cost, the organisation’s resources and size and the availability of financial support.”*

What Are Reasonable Adjustments?

- > To work from home on the days when you have your infusion.
- > To have an extended number of days of ill-health before formal sick absence reviews are held.
- > To have the days when you have to attend your regular clinic appointments discounted from sick leave accumulation.
- > To be able to job share.
- > To vary the times of the working day

Remember your employer can lawfully turn down unreasonable requests for adjustments, however, if an employer turns down a reasonable request you can make a complaint to an employment tribunal. The [ACAS](#) helpline should be contacted if you find yourself in this situation. It should be noted that continued absence from work is never likely to be considered reasonable. If there is no realistic chance of a return to work, then dismissal can occur even before contractual sickness benefits are due to end.

I am employed and have been recently diagnosed. Do I have to tell my employer?

If you have recently been diagnosed with a PAD you may want to discuss this with your line manager and HR section, if you have one. It may be helpful to take some information about your condition and how it may affect you. Remember they have a duty of care to you and can only help and support you if they are aware. You may want to ask for a referral to your Occupational Health Team or contact your Employee Assistance Programme if available.

I am employed but I have not told my employer that I have a PAD, what should I do?

Consider discussing your condition with them, withholding information in relation to disability or medical conditions means an employer would not have a duty to make reasonable adjustments in the workplace and you would not be able to invoke your rights for protection from discrimination under the Act.

What happens if I become subject to Disciplinary Action due to my ill health?

If you find yourself subjected to disciplinary action for reasons connected to your PAD please obtain legal advice as this could be potentially illegal. In these circumstances it would be sensible to contact your Trade Union (if you are a member) or the [ACAS](#) helpline.

You may also have access to free legal advice and representation under your home insurance or through a premium bank

account.

Please feel free to contact **UKPIPS** for further advice relating to the contents of this leaflet.

Helpful websites

Equality Act 2010 Guidance <http://odi.dwp.gov.uk/docs/wor/new/ea-guide.pdf>

The next two internet addresses are lengthy—especially the second one!

www.gov.uk/recruitment-disabled-people/encouraging-applications

www.gov.uk/government/uploads/system/uploads/attachment_data/file/138118/Equality_Act_2010_-_Duty_on_employers_to_make_reasonable_adjustments_for....pdf

PLEASE BE AWARE ...

This information is based on laws prevailing in England. There is always a possibility that parliaments in Northern Ireland, Scotland and Wales may have altered such legislation to meet specific national needs. Your local Citizens Advice Bureau (or similar equivalent) may be able to help you.

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For details of information sources, contact info@ukpips.org.uk

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