

The Equality Act 2010 and PAD

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 surrounding disability status is an important one to answer. The Equality Act 2010 (The Act) sets out definitions of a disability which will help you answer this question.

Why it's important to understand if you should class yourself as disabled

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.”*

You will only be protected by the Act if you meet the definition as set out in Section 6 of the Act.

Definition

The Act states that 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”.*

How to decide if this definition applies to you

Considering if the Act's definition of disability applies to you can be difficult. It is important to be realistic and not to understate the impact your PAD has on your life. It can be helpful to ask those who know you well to inform your decision, as they will have observed the impact PAD has had on your day to day activities.

In order to apply the Act you will need to disregard the effects (good and bad) of your treatment plan. *“If it is known that removal of the medical treatment would result in either relapse or a worsened condition, it would be reasonable to disregard the medical treatment”* (Paragraph 5 of Schedule 1 of the Act).

This means that you need to focus on the actual, or potential impact of the condition on your day to day life, if your treatment plan was not in place or was not effective. For example, such treatment could include prophylactic antibiotics or antibody replacement therapy.

Physical or mental impairment

“A physical impairment is a condition affecting the body, perhaps through sight or hearing loss, a mobility difficulty or a health condition.

*A mental impairment is a condition affecting ‘mental functioning’, for example a learning disability or mental health condition such as manic depression.”*²

If you have been diagnosed with a PAD by a clinical immunologist, from the definition

above, you can be classed as having a physical impairment.

Substantial adverse effect

The Act states that “*substantial*’ means more than minor or trivial” (S212).¹ When considering the effect of your impairment, you should take into account its impact on the way an activity can be carried out and the time taken to complete it. The guidance to the Act also draws attention to the cumulative effect of tasks and states “An impairment might not have a substantial adverse effect on a person’s ability to undertake a particular day-to-day activity in isolation, but its effects on more than one activity, taken together, could result in an overall substantial adverse effect.”

Long term

The effect of an impairment is long-term if “it has lasted for at least 12 months, it is likely to last for at least 12 months” or, “it is likely to last for the rest of the life of the person affected” (Paragraph 2 of Schedule 1 of the Act) . As PAD’s are a lifelong condition which have no cure and require lifelong treatment, you will fit the criteria for long term effects.

Further information

1. Equality Act 2010 Guidance <http://odi.dwp.gov.uk/docs/wor/new/ea-guide.pdf>
2. Equality and Human Rights Commission <http://www.equalityhumanrights.com/your-rights/equal-rights/disability/words-used-to-define-disability/a-physical-or-mental-impairment>

PLEASE BE AWARE ...

The 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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