

# Enhanced standard three

Improve the disclosure process  
to encourage openness during  
recruitment

Someone who applies for a position with your organisation – or an athlete going through a selection process – may worry about sharing information about their mental health. So it's important that you offer a fair and unbiased recruitment and selection process. See page 71 for our top tips on how to create this.

Under the [Equality Act 2010](#) job candidates are not required to disclose whether they have a mental health condition to their prospective employer. It's also unlawful for employers to ask candidates questions about their health during recruitment, except in certain circumstances.

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## Exceptions to the ban on pre-employment health questions<sup>22</sup>

You can ask questions about health and disability before a job offer only when they're necessary and fall under these narrow criteria:

- to find out if an applicant can take part in any assessment that tests their ability to do the job, or to find out if reasonable adjustments are needed for the recruitment process, including assessments or interviews
- to find out whether a job applicant will be able to carry out a function intrinsic (or absolutely fundamental) to that job. These 'intrinsic' requirements are narrowly defined and must be objectively justifiable. The Equality and Human Rights Commission advises: "In practice, even if a function is intrinsic to the job, you should ask a question about a disabled person's ability to do the job with reasonable adjustments in place. There will therefore be very few situations where a question about a person's health or disability needs to be asked."
- to find out whether a job applicant has a particular disability, because having that disability is a genuine occupational requirement of the job
- to monitor the diversity of job applicants
- to take positive action in relation to disabled people – for example, to decide if job applicants qualify for measures the employer takes to improve disabled people's employment rates, such as a guaranteed interview scheme.

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<sup>22</sup> Extracted from: (2018). The People Managers' Guide to Mental Health. CIPD in collaboration with Mind.

As far as possible, when you ask questions for any of these purposes, keep them detached and separate from the application form, so any health information is not seen by the selection panel. Where one person handles all aspects of the recruitment process, for example in a small organisation, they must take every step to disregard this information in shortlisting and selection to comply with the law.

Recruitment decisions should be based on whether candidates have the necessary qualifications and competence for the job. Athletes should be selected on the basis of whether they reach the required performance standard.

If you have concerns about whether health or disability will affect their ability to perform in the role, you must assess these within your legal duty to make reasonable adjustments.

# Employer tool

## Examples of appropriate and lawful health enquiries before the job offer<sup>23</sup>

### Application form or equal opportunities form

“Please contact us if you need the application form in an alternative format or if you require any reasonable adjustments to the selection process, including the interview (for example, physical access, communication support, personal support).”

### Assessment

“Some of our roles require applicants to complete an online test. Please provide details below of any reasonable adjustments you would need to complete this (for example, extra time, online access, communication requirements).”

### Invitation to interview

“Please respond to confirm your availability to attend at the allocated time and to indicate any reasonable adjustments you may need for the interview.”

### Monitoring

“We are an equal opportunities employer. The following information will be treated confidentially and will help us monitor our equal opportunities policy. Your application will not be affected by the information provided in this section, which will not be seen by the selection panel. Do you consider yourself to be disabled? (Yes/No).”

### Occupational requirements

“An essential criterion for this post is knowledge of mental health, including specific mental health problems. This is an occupational requirement, so you will be asked about your mental health history during the recruitment process.”

23 (2018). The People Managers' Guide to Mental Health. CIPD in collaboration with Mind.