

## GUIDANCE NOTES: Equality Act 2010 ("The Act"); Disability

1. Disability Nottinghamshire welcomes applications from all sectors of the community and we particularly wish to employ more people with disabilities within our workforce. We want to support you through the application process.
2. The Charity is committed to offering fair and equal opportunities to applicants with disabilities during the recruitment process and will endeavour to provide additional help and support where needed.
3. If you believe that you are disabled under the definitions given within the Act please tick the appropriate box on the application form. This will help ensure that you are given all the help and support possible throughout the selection process and, if successful, your employment with us.
4. All job applicants are strongly advised to read this before completing the relevant section/s on the application form.

### **Defining a disabled person**

A person has a disability if **all** of the following apply:

- They have a physical or mental impairment; and
- The impairment affects their ability to carry out normal day-to-day activities; and
- The impairment has a substantial adverse effect; and
- The adverse effect is long term.

NB/ People who have had disabilities in the past are included.

### **What impairment covers**

Impairment covers both physical and mental impairments. These can include:

- Sensory impairments, for example sight and hearing;
- Mental impairments, for example learning disabilities, dyslexia and mental illness;
- Physical impairments, for example mobility problems and amputated limbs;
- Conditions that worsen over time, for example HIV and multiple sclerosis; and
- Severe disfigurement (here there is no need to demonstrate that the impairment has a substantial adverse effect on the ability to carry out normal day-to-day activities).

### **Normal day-to-day activities**

Normal day-to-day activities are those activities carried out daily or on a regular basis. These activities must be normal for a large number of people for example, getting dressed, preparing food, walking etc.

### **Substantial adverse effect**

A substantial adverse effect is something which has more than a minor or a trivial effect and is beyond the normal differences in ability which exist among people. For example, where a person can carry out day-to-day activities in pain or with difficulty this can amount to substantial adverse effect.

NB/ Any medication or treatment will be disregarded when classifying a person as disabled. For example, where a person with a hearing impairment uses a hearing aid, the question will be *were it not for the hearing aid would the person suffer substantial adverse effect*.

### **Long term adverse effect**

A long term adverse effect is an impairment which:

- has lasted or is likely to last for at least 12 months; or
- is expected to last for the rest of a person's life unless they have less than 12 months to live; or

- is degenerative / progressive e.g. HIV, cancer or multiple sclerosis, even if no adverse effects are shown at the time of diagnosis.

### **Severe disfigurements**

People with severe disfigurements are covered by the Act. They do not need to demonstrate that the impairment has a substantial adverse effect on their ability to carry out normal day-to-day activities.

### **Pre-employment health screening**

Prospective employers can ask health-related questions before short-listing or making a job offer if it is necessary for them to do so for one or more reasons permitted by the Act. These are situations where: the employer needs to establish whether the employee is fit to undergo an assessment, or whether the employer has a duty to make reasonable adjustments in connection with an assessment; the employer needs to establish whether the job applicant will be able to carry out a function that is intrinsic to the job concerned; the employer wishes to undertake diversity monitoring; the employer is considering taking positive action in relation to disabled persons; or it is a genuine requirement of the job that the employee has a particular disability. A question that does not fall within one or more of these exceptions will be prohibited. Asking a prohibited question does not of itself give a job applicant a tribunal claim. However, if a job applicant who has been asked a prohibited question does bring a claim of disability discrimination, the burden will be on the employer to prove that they have not discriminated.

### **Reasonable adjustments**

Once a disability is identified the Company will comply with s.6 of the Act in making reasonable adjustments where required. The Company will consider:

- Whether there is a need to make reasonable adjustments ? E.g. do the premises or practices place the disabled employee at a substantial disadvantage?
- Whether the adjustments are possible? I.e. are there any steps the employer could take to remove this substantial disadvantage?
- Whether it is reasonable for the Charity to make such adjustments?

Where the Charity does not know of the employee's disability and the effect of such disability, they will be exempt from any duty to make reasonable adjustments. This exemption does not apply, however, where the Company ought to have known that the employee was disabled and the employee's disability was liable to affect the employee in the manner set out in s.6 of the Act.