

Discussing disability in the workplace

Introduction

Disclosing a disability to an employer is an individual decision, and there is no obligation on anybody to do so. However, there are many reasons why telling an employer about a disability or long-term health condition can be a positive action that empowers, protects and assists disabled people in the workplace. It can also help both managers and staff to find ways to ensure that they can work effectively together.

This guidance is designed to support both managers and staff. It gives practical advice on how to plan for and approach conversations about disability, to ensure they are constructive, respectful, and lead to improved support and more inclusive working environments.

The direct quotations are from disabled doctors who have informed the development of this guidance.

Background

Evidence shows that across the NHS workforce, many disabled people choose not to tell their place of work or study that they are disabled or have a long-term health condition. Around 19% of respondents to anonymous NHS staff surveys disclose a disability, but only around 3% do so on the ESR (electronic staff record). The national report on the NHS England WDES (Workforce Disability Equality Standard) published in March 2020 showed that only around 2% of the clinical workforce disclosed a disability, and that disclosure rates decreased at later career stages.

The BMA's [disability survey](#) found that many disabled doctors and medical students are concerned about the impact that disclosing a disability may have on their professional life. Our survey found that:

- A quarter (23%) of respondents had not disclosed to their current place of work or study.
- Around three-quarters of respondents (77%) were worried about being treated unfavourably if they disclosed a disability or long-term health condition at work or medical school.
- Only around one third (36%) felt comfortable telling people about their disability or health condition because they believed the organisation was disability friendly.
- Only two in five (41%) agreed that telling their workplace or medical school had led to improved support.



When might people disclose a disability or health condition?

Managers should be aware that people may choose to mention a disability or long-term condition at any point before or during their employment.

Some common points may include (but are not limited to):

- At the beginning of employment¹
- When moving to a new role or a new setting (for example, when a junior doctor rotates during their training)
- When someone receives a new diagnosis or their condition changes
- During a formal review or performance management processes or appraisals
- Following employer campaigns to encourage disclosure if someone is having difficulty with particular elements of a role

Does my staff member meet the statutory definition of disability?

Under the Equality Act 2010², a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Some conditions are automatically covered as soon as they are diagnosed for example, multiple sclerosis, HIV, cancer and being registered blind or partially sighted.

Many people may not realise that their disability is covered by the statutory definition of disability. Many also do not associate themselves with this definition of disability. For example, some deaf and neurodivergent people do not identify as disabled; nor do many with mental health conditions or energy limiting impairments like chronic fatigue syndrome. The individual circumstances of each neurodivergent person will determine whether their condition qualifies as an 'impairment' under the definition in the Equality Act.

Managers can sometimes overly focus on whether or not a person meets the legal definition of disability. This can cause tensions if managers and staff have different views on the nature and extent of a person's disability or whether or not a person is entitled to legal protections and support. In most cases, this situation can be avoided if managers instead focus on the wider benefits of providing any adjustments that might help their staff members, whether or not they meet the legal definition of disability under equalities legislation or have a formal diagnosis of disability or a long term health condition.

The BMA supports and promotes the social model of disability. In this model, people are disabled not necessarily by the nature of any specific physical or mental impairment they may have, but because the way that the workplace or wider society operates does not enable them to participate on an equal footing with non-disabled people.

1 It is unlawful for employers to ask questions about disability and health before making a job offer, under Section 60 of the Equality Act 2010 – however there are narrow exceptions to this, such as to find out whether a job applicant can carry out an intrinsic part of the job. Questions about health and disability can be asked after a job offer has been made but the successful candidate would be able to make a claim of disability discrimination if the offer has been withdrawn because of their disability. [Pre-employment health questions - Equality and Human Rights Commission](#)

2 The Equality Act 2010 applies only to England, Scotland, and Wales. For definitions of disability discrimination in Northern Irish law, see the Disability Discrimination Act 1995.

What are an employer's responsibilities if someone discloses a disability or health condition?

Legislation is in place under the Equality Act 2010 to support disabled people in employment, but in many cases the protection and assistance that legislation offers is dependent on the individual disclosing their disability.

When someone tells their employer they are disabled, the employer has a legal responsibility to:

- support them, including making 'reasonable' adjustments. Employers must make 'reasonable' adjustments when they know, or could reasonably be expected to know, someone is disabled. It is unlikely that an employer would be able to claim they did not know about a disability if a disclosure conversation has taken place.
- protect the employee from disability discrimination, including harassment and victimisation. This includes direct discrimination (where a disabled person is treated less favourably than a non-disabled person because of their disability) and indirect discrimination (where policies, processes and workplace practices that apply to all employees place disabled people at an unjustifiable particular disadvantage compared to their non-disabled peers)

An employer could be liable under the law if they discriminate against a disabled worker, fail to protect a worker from discrimination at work, or fail to make reasonable adjustments. For example, if someone is harassed by a colleague or does not get the reasonable adjustments they need at work, they could make a disability discrimination claim against the organisation to an employment tribunal.

Managers should therefore take steps to ensure they are familiar with the following areas as an integral part of their management role:

- EHRC Guidelines <https://www.equalityhumanrights.com/en/multipage-guide/employing-people-workplace-adjustments>
- Your organisation's dignity at work policy and reasonable adjustments policy and sources of information on how to access support, for example occupational health services and the UK Government Access to Work scheme <https://www.gov.uk/access-to-work>
- Wider sources of information, including BMA guidance [here](#)
- ACAS provides some useful advice on reasonable adjustments for mental health, available here: <https://www.acas.org.uk/reasonable-adjustments-for-mental-health/examples-of-reasonable-adjustments-for-mental-health>

Core principles for managers to support disclosure

“Managers need to know that if a disabled doctor requests different arrangements, this is not necessarily a criticism of the manager’s way of doing things”

Managers should be aware that the key purpose of disclosure is usually to ensure that any support needed by a disabled employee can be put into place. There are some key principles that managers should remember when approaching any conversation around disability or long-term health conditions:

- **Every disabled person’s experience is unique**³. You should avoid making any assumptions about a person’s ability, professional capability or support needs based on their condition or disability, or on any previous experience of managing people with the same or similar conditions.
- **Disabled people are under no obligation to discuss their disability or long-term health conditions** and should always have the choice if to do so, how to do so, when to do so, what information to share and with whom they share it.
- **You should avoid asking for any information which is not directly related to providing any support** that may be needed (particularly sensitive medical information, or information about other conditions). A formal diagnosis is not required for people to access support and you should avoid asking for evidence of a formal diagnosis. Some disabled individuals may have more than one disability or health condition and may only wish to share partial information or information about one aspect of their disability or one condition.
- You should ensure that **the highest standards of confidentiality are applied to any conversations and information you receive**. Disability related data will usually fall under the category of sensitive data, and particular care should therefore be taken about how any written records or information about an individual’s disability or health condition are stored and who has access to them.
- You should only consider discussing an individual’s disability or health conditions with others without the individual’s consent if, on the basis of evidence, you believe there is a serious risk to the health and safety of the individual or colleagues/patients through non-disclosure. It is important to remember that in the usual course of employment, this is extremely unlikely to be the case for most individuals with a disability or health condition.
- Your role in the conversation is as an employer. Even if you have clinical knowledge of particular conditions or disability, **you should avoid giving medical or clinical opinions or advice unless specifically requested**.
- **Individual staff are likely to vary in their preferences on how much information they wish to disclose, particularly medical information**. It is important that managers respect the sensitivity of this information and should not ask for more details than they need to be able to put support in place. Questions should focus on understanding the impact of the disability or health condition on the individual rather than details of the individual’s diagnosis.

³ All actions taken to progress to a fairer medical profession must be intersectional. This is to ensure we accurately reflect the experiences of all doctors and medical students, recognising that other characteristics such as a person’s gender identity, ethnicity, disability, faith or sexual orientation will impact their experiences in the workplace.

Understanding Cultural Differences:

To effectively support staff members with disabilities from diverse backgrounds, it is essential to understand cultural differences. Remember:

- Different cultures have different beliefs, attitudes, and perceptions about disabilities and this can lead to stigmatisation and discrimination.
- Understanding these cultural nuances can help managers develop appropriate support mechanisms that align with the individual's cultural values and expectations.
- Effective communication is key to supporting staff members with disabilities who may have qualified or trained abroad. Remember that communication styles and preferences may differ across cultures. Some individuals may prefer direct and assertive communication, while others may value a more indirect and understated approach.
- Employers should foster open lines of communication and be receptive to feedback, ensuring that the communication methods and channels used are sensitive to the diverse cultural backgrounds of their disabled staff members.

Creating the right environment to discuss disability – advice for managers

“By proactively talking about accessibility, it may help give the message to disabled doctors (and other disabled staff) that they are welcome in the environment and that it is ‘safe’ to ask for support or changes”

Truly inclusive workplace cultures appreciate that everyone – whether or not they are disabled – works differently and may require adjustments at some point in their lives. Building inclusive teams should be an important priority for management to ensure effective performance and good morale, leading to better job satisfaction and increased staff retention.

“Seek to make the environment and things like meetings accessible. Many things which would help dyslexic people, for example, will also help all employees – such as getting meeting papers well in advance of the meeting”

Employers should do all they reasonably can to create an environment where everyone can feel safe and comfortable to talk about disability and wider health and wellbeing. This can help towards:

- making sure disabled people get support and are not put at a disadvantage or treated less favourably
- recognising the benefits of an inclusive and diverse workforce that does not exclude disabled people
- recruiting and retaining staff who often have unique insight into patient experiences and enhanced problem-solving skills through developing ways of living with a disability
- avoiding situations where an employer does not know someone is disabled and just thinks they are underperforming
- improving wellbeing and productivity for everyone

Many disabled people report concerns that if they disclose disability in the workplace and/or ask for adjustments they will face negative reactions from colleagues. This can have negative impacts on the individual, team performance and overall morale.

“One of the main fears people have is that they will be viewed as getting special privileges or preferential treatment and that this will lead to resentment from colleagues”

Managers should be aware that their staff may have concerns about being unfairly treated or discriminated against if they disclose disability, and should take steps to ensure that all staff are aware that disability discrimination is unacceptable. It may be helpful to discuss this as a general principle with all staff, noting in particular that:

- The duty to make reasonable adjustments often requires employers to do more for disabled people, or to treat disabled people differently, to support inclusion and achieve equity at work. Adjustments are aimed at removing barriers and putting disabled people on a level playing field.
- Under the Equality Act reverse discrimination claims by non-disabled people are not possible.
- Any discussions of this nature should take all possible steps to respect the individual confidentiality of any disabled individuals in the workplace, including those who may be about to commence employment and those who have left employment.

Ensuring confidentiality

Disability disclosure is dependent on mutual trust. It is vital that managers adhere to strict confidentiality in relation to:

- an individual disclosing that they have a disability or health condition, and
- any details of their disability or health condition(s).

Managers should discuss and agree with the disabled employee whether or not they wish information about their disability or health condition to be shared with colleagues, including:

- what specific information can be shared and in which context, AND
- which specific colleagues will be informed and for what purpose, AND
- how the information will be conveyed

Information should not generally be disclosed to any third party without the express consent (ideally written consent) of the disabled person, even if this is likely to make it more difficult to put appropriate adjustments in place. There are a few limited exceptions to this principle, such as where the employer believes there is a serious health and safety risk to the individual or to other colleagues from not sharing relevant information about an individual’s health condition. It is very important for managers to take steps to ensure that they fully consider and document why they have reached any decision to breach confidentiality in this way, and ideally any concerns should be discussed with the disabled individual and agreement reached on what information it is strictly necessary to share.

Managers are also responsible for ensuring that non-disabled colleagues are clear on their own responsibilities not to share confidential information about disabled colleagues and for ensuring that disclosure of a disability or health condition does not give rise to workplace discrimination, harassment or bullying.

Initiating conversations about disability – advice for managers

Many managers are likely to have worked with disabled colleagues before, but given the low rates of disclosure, may not have knowingly done so. They may be worried about discussing disability for fear of upsetting or offending someone or saying the wrong thing. It is important that managers do not delay or avoid conversations if they think someone may be managing a disability or health condition and might need support, or if they think a staff member is underperforming. Some key points to consider:

- **Normalising regular discussions about support in the workplace can support all staff**- both disabled and non-disabled- to feel comfortable discussing what they may need. It also allows for any support that is needed to be put in place in a timely fashion.
- **Disabled people often have different preferences and views on what language they find appropriate or inappropriate.** If you are unsure about how to say something, ask the person what they would prefer, and respect the language that they use to describe themselves.
- **It is important to have a safe environment to facilitate discussions**-ensure you hold the conversation in a private, neutral setting, with an appropriate time allotted to avoid unnecessary interruptions and put the employee at ease.
- **Managers should be proactive in thinking about the ways a workplace operates that could negatively impact disabled people.** Think critically about your workplace environment and processes and what might potentially need adjusting to support people with different needs (not just disability and long-term health conditions). Where possible, you should aim to foster disability inclusive environments regardless of whether you currently have disabled employees.
- **Start with an open mind.** Supporting disabled staff to work to their best ability will have benefits for the individual and for the wider team. Many of the adjustments that disabled staff could benefit from cost very little and are straightforward to implement, and may also be of benefit to non-disabled staff.

“Include disabled doctors in discussions about them and their disability. Listen to the disabled doctor’s perspective. Be aware that the disabled doctor may be anxious about having this kind of discussion, they may be worried assumptions might be made about them and their capability to do their job.”

Initiating conversations – advice for staff considering disclosure

It can sometimes be difficult for managers to conceptualise how best to support disabled colleagues, particularly if they have had limited experience of working with disabled people in the past. In these circumstances, it can be helpful to provide specific information about the impacts of your disability or condition on particular tasks or elements of your role where adjustments could be made to support you. If you already have a particular idea about something which might help you, prepare to discuss this as a specific example. The BMA can provide support if you are unsure about what types of adjustments might be available to you.

To ensure a conversation leads to practical support, it can be helpful to monitor how your condition affects you- for example, if there are particular tasks that you find easier to manage than others, or particular times of the day when you find you are able to work most effectively.

Try not to delay talking to your manager if you feel your performance is being negatively affected. If you're not confident talking to your manager on your own, ask for someone to come with you. This could be a union representative or someone you work with.

If you've been in your job for a while and not spoken about disability, you might be worried about mentioning it. There is no right or wrong time. It's your decision when you choose to talk, so plan what you want to say.

Discussing reasonable adjustments – advice for managers

Managers should keep in mind that not everyone who is disclosing disability or a long-term health condition will be looking for specific adjustments, and should avoid making assumptions about levels or types of support that are needed. It is important to listen to the disabled person's perspective as they are the most likely to have specific insight into their individual circumstances. The most straightforward way to do this is to ask: "are there any adjustments that you think would support you in your role?"

"The manager needs to know the disabled doctor's perspective – the changes or support the disabled doctor believes would help them in their work"

In many cases the person will know, or have an idea, of what adjustments they might need. However, it is important to bear in mind that this will not always be the case. Below are some particular scenarios where some people may be more uncertain about the type of adjustment they may need:

- **People who have newly acquired disability or health condition** may not yet know what the impact will be on how they manage their work
- **People who are new to a particular workplace environment** may not have yet experienced particular types of tasks or activities that might require adjustment.
- **People with fluctuating conditions** may need different support and adjustments at different times and in different situations depending on how their condition affects them at different points.
- **When new policies, technologies, practices and ways of working are introduced to the workplace**, people may need to revisit or adapt the support or adjustments they have in place already.

It is important that managers recognise that any adjustments put in place should be reviewed on a regular basis to ensure that they are achieving the desired outcomes for the individual. It may take time for some adjustments to work well, particularly if they involve changes to routines or ways of working.

"Be aware that the doctor may want to discuss this topic on more than one occasion. Be aware that not all disabled doctors will want / need support from the employer because of their disability"

Occupational health assessment – advice for staff considering disclosure

When you disclose a disability or health condition, your manager may suggest an occupational health assessment to ensure that appropriate support is put in place. It's a good idea to check if your organisation has an occupational health policy.

This should say:

- when an occupational health referral or assessment can be made
- how, where and by who it's carried out
- what both the employer and employee need to do
- what the next steps are

Key principles for staff undergoing occupational health assessment:

- Be proactive. It is worth planning in advance the areas that you think should be covered by the discussion. There is useful guidance on this from the Disabled Doctors Network here. Examples of things to consider might include:
 - How your job role (or particular tasks) impact on how you manage your health condition or disability
 - Whether you have had adjustments in the past that have helped you, or are aware of suggested adjustments that might be of benefit to you
 - How you and your manager will review any support that is put in place
- It is your decision what information to share with the occupational health assessor and what information from your report can be shared with your employer. This should focus on practical considerations in relation to how you carry out your role.
- You have the right to see your OH report before it is sent to management to ensure it accurately reflects your situation. You do not need to share the full report if you don't want to. However, you should consider what information can be shared that will enable your employer to put any necessary support in place.

Occupational health assessment – advice for managers

When an individual discloses a disability or health condition, you may wish to consider if there is a need for an occupational health assessment. The purpose of an assessment is to look at how the person's disability or health condition may affect their work, and the occupational health advisor can provide recommendations to the employer on possible adjustments that can be implemented to support the individual.

Key principles and considerations for managers when considering whether an occupational health referral is needed

- Consider whether a referral is actually needed. Examples may include:
 - When an employee begins in a new role or has substantive changes to their role
 - If an employee is returning to work after sickness or disability-related absence
 - To ensure that you can provide any necessary adjustments
 - If an employee has requested to be referred to occupational health for advice
 - If an employee is finding particular aspects of their role challenging
- Carefully discuss the reasons for referral with the individual in question, how it can be helpful, how the information is used and provide assurances that the purpose of the referral is to support them.

- An assessment should focus specifically on the practical impacts of the individual's disability or health condition on their working life, not on medical or clinical aspects of the disability or health condition. The basic principle is that you should be looking for the minimum level of information needed to provide the necessary support.
- Respect the employee's views on confidentiality and what information can be shared with others.
- Occupational health recommendations are not binding on an employer. However, you should try and proceed from the basis that you will implement any recommendations as far as possible and in a timely fashion.
- If you are not able to implement specific changes recommended by OH you should be prepared to explain your reasons for not doing so. It is also important to remember that you will still need to look for alternative adjustments that can be made to support the individual, in order to comply with the duty to make reasonable adjustments.

If you need employment advice and/or wellbeing support from the BMA, we have a range of services and information to help support you. For instance, our free and confidential 24/7 counselling line and peer support service are open to all doctors and medical students. You can find further information from our website <https://www.bma.org.uk/advice-and-support/your-wellbeing>

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