

Factsheet for Employers on Hyperkinetic Disorder (ADHD)



What is Hyperkinetic disorder?

People with Hyperkinetic disorder experience impulsiveness or difficulties with maintaining attention, possibly leading to antisocial behaviour. It is often associated with learning difficulties, aggression and disobedience. As a consequence, some people with Hyperkinetic disorder can find it difficult to build social relationships, leading to low self-esteem.

No one knows what causes hyperkinetic disorder, although there may be many factors involved. Hyperkinetic disorder is primarily diagnosed in children and young people, although associated behaviours can continue long into adult life. Around 2% of children are diagnosed with Hyperkinetic disorder every year¹. In many cases the condition may largely settle down in teenage life, although problems with concentration and restlessness can continue.

Due to attention and concentration and difficulties at school, many children become underachievers. Early diagnosis will increase the chance of the condition becoming manageable. Many people with Hyperkinetic disorder want to work, and with the correct training and support are able to undertake employment.

Suggestions on reasonable adjustments

Induction and environment

Induction is an important part of how any individual is welcomed to their new role, colleagues and organisation. In order to fulfil your legal obligations to make reasonable adjustments you should discuss with the employee their needs and wishes. Many employees are extremely proactive in managing their own condition and may require few if any adjustments.

Adjustments that might be needed include:

- Allow more time for the person to acquire the necessary skills. This does not mean that the person will be less productive once adequate training has taken place;
- Do not assume that skills learnt in one part of the business can be automatically transferred to another. It may be that new associations need to be developed. For example, a person inputting data may need retraining

¹ National Statistics news release,
<http://www.statistics.gov.uk/pdfdir/cmd0805.pdf>

if asked to perform a similar task on a different computer, despite the similarity of the task.

Communication

Requirements around job performance and workplace etiquette need to be carefully explained and understood. Similarly, any behaviour displayed by an individual that is inappropriate should be discussed and it should be explained precisely what was inappropriate. Reading non-verbal communication, or taking te of other people's reactions can be challenging to people with hyperkinetic behaviour.

Adjustments that might be needed include:

- Setting aside time to go through in detail job requirements and how specific tasks might be broken down and managed in smaller chunks. This should include performance measurement and how a task might be assessed;
- Using direct language and ensuring that instructions are understood;
- Where inappropriate behaviour has been displayed, clearly explaining what is inappropriate and what is expected of the individual within the workplace.

Workplace Behaviour

People with Hyperkinetic disorder may display some antisocial behaviour, which can be challenging for the line manager and other members of the team. It may also lead to the individual being, or feeling, socially excluded. It may make it difficult to build social relationships. Problems with attention span may also result in difficulty building relationships with team mates and taking in information.

Adjustments might include:

- Securing fellow workers' tolerance and understanding;
- If the behaviour needs to be challenged, tell the employee clearly that the behaviour is not appropriate, and ask them not to do it again.

Working as part of a team

People with Hyperkinetic disorder can feel themselves socially excluded because of aspects of their behaviour, which may come across as aggressive or antisocial.

Adjustments that might be needed include:

- Provide a workplace mentor to ensure supportive training. This can provide another employee valuable personal development;

- Remember the “unwritten rules” of your workplace and do not assume that the person will pick these up. For example when external clients visit the office a smart dress code is expected.

Legal position

Disability discrimination under the Equality Act 2010.

Direct discrimination

It is unlawful for an employer to treat a disabled job applicant, or employee, less favourably, simply because of their disability. This type of discrimination is known as direct discrimination. It is unlawful and cannot be justified.

Discrimination arising from disability

The Equality Act replaced disability-related discrimination in the Disability Discrimination Act with discrimination arising from disability which occurs when:

- An employer knows or could reasonably be expected to know that the person is disabled;
- The disabled person experiences unfavourable treatment which arises as a consequence of their disability.

There is no requirement for a comparator i.e. the disabled person does not have to show that they have been treated or would have been treated less favourably than someone else.

An employer can justify detrimental treatment arising out of a disability if they can show that it is a proportionate means of achieving a legitimate aim.

Indirect discrimination

The Equality Act has introduced the new concept of indirect disability discrimination.

Indirect discrimination occurs when a seemingly neutral provision, criterion or practice that applies to everyone places a group who share a characteristic e.g. a disability at a particular disadvantage.

Indirect discrimination may be justified if it can be shown that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

Reasonable adjustments

An employer has a duty under the Equality Act to make reasonable adjustments (which includes providing auxiliary aids such as a support worker

or information in alternative formats) to prevent a disabled employee from being placed at a substantial disadvantage by any physical feature of the premises, or by any provision, criteria or practice of the employer.

The duty applies to all aspects of employment, including recruitment and selection, training, transfer, career development and retention and redundancy. Failure to make a reasonable adjustment to a policy procedure or practice, or to a physical feature of the workplace where this is placing a disabled person at a substantial disadvantage, is unlawful and cannot be justified. Examples of reasonable adjustments for people with dyslexia are given throughout this briefing.

When deciding whether or not an adjustment is reasonable an employer should consider the:

- Effectiveness of the adjustment in preventing the disadvantage;
- Practicality of the adjustment;
- Financial and other costs of the adjustment and the extent of any disruption caused;
- Extent of the employer's financial or other resources;
- Availability to the employer of financial or other assistance to help;
- make an adjustment, for example through the Access to Work scheme and the support of Jobcentre Plus.

Equality Duty

Public authorities and those carrying out public functions are required by the Equality Act to promote equality of opportunity for disabled people.

This includes ensuring that third parties, such as recruitment agencies who provide services to the authority, do not discriminate against disabled people and that they positively encourage disabled candidates to apply for jobs within the authority. The duty also means that authorities need to think in advance about the needs of both disabled employees and potential disabled employees. Authorities should bear this in mind when reading this briefing.

As well as the Equality Act, there is also a "statutory" Code of Practice on Employment and Occupation. "Statutory" means that it is produced under the legislation, it is admissible as evidence and must be taken into account by courts and tribunals where relevant. References are made in this briefing to the Code.

Access to Work Scheme

Access to Work is a Government run scheme that offers disabled people financial support for reasonable adjustments in the workplace, such as a workplace assessment. For more information contact an Access to Work Adviser who will tell you more about the scheme and how it could help you. Contact details of the Access to Work business centre nearest to you can be found through Jobcentre Plus (www.jobcentreplus.gov.uk).

For more information contact:

ADDISS (National Attention Deficit Disorder Information and Support Service)
PO Box 340
Edgware
Middlesex HA8 9HL
Tel: 020 8952 2800
Fax: 020 8952 2909
Website: www.addiss.co.uk
Email: info@addiss.co.uk

Or

Business Disability Forum

Nutmeg House | 60 Gainsford Street | London | SE1 2NY
Tel: +44-20-7403-3020 | **Textphone:** +44-20-7403-0040
Email: advice@businessdisabilityforum.org.uk
Web: <http://businessdisabilityforum.org.uk>

This publication and the information contained therein are subject to copyright and remain the property of Business Disability Forum. They are for reference only and must not be reproduced, copied or distributed as a whole or in part without prior permission, apart from internal distribution within the original recipient's organisation.

The information provided in this publication is for guidance only and Business Disability Forum accepts no liability for any actions, or consequences of actions, arising from this information.

Business Disability Forum is committed to ensuring that all its products and services are as accessible as possible to everyone, including disabled people. If you wish to discuss anything with regard to accessibility, please contact us as set-out above.