

Obsessive Compulsive Disorder (OCD) is a hidden condition that affects between 1-2% of the population and is frequently misunderstood. This leaflet will help you understand OCD and how people with the condition can contribute successfully to your workforce and deliver their best to you.

EMPLOYING PEOPLE WITH OCD

WHAT YOU NEED TO KNOW

EMPLOYING PEOPLE

EMPLOYMENT AND OCD

Many people will experience mental health problems at some point in their lives; possibly you will know at least one person who has. According to the Trade Union Congress (TUC), one in six workers will be experiencing stress, anxiety or depression. Obsessive Compulsive Disorder (OCD) is an 'anxiety disorder' which is generally very poorly understood. It is a condition which affects about 1-2% of the general population.

Information provided here will help you to:

- Understand OCD
- See that many people with OCD are some of the most able and conscientious people in society
- Understand your responsibilities to them under the Equality Act 2010

WHAT EXACTLY IS OCD?

There are many myths and stereotypes concerning Obsessive Compulsive Disorder and the term is often misused to describe someone who is fastidious or excessively neat and tidy.

OCD can take many forms but it is based upon two elements; Obsessions and Compulsions. Obsessions are unwanted thoughts that won't go away and compulsions (which are often associated with obsessions) are actions people take in order to get rid of their thoughts or neutralise them.

So for example someone with obsessional thoughts about germs might wash excessively or avoid certain situations or people. Someone who has obsessive fears about something unpleasant happening to their family, may repeat certain phrases over in

their heads a number of times and by doing so, they feel that they will prevent anything bad from happening.

People with OCD often feel responsible far beyond what is reasonable and they carry that weight of responsibility very heavily. They tend to be very hard on themselves if they make mistakes, as they usually want to do things really well and are often perfectionists in their tasks.

OCD can affect anybody no matter their age, gender or background but it is treatable.

EMPLOYING SOMEONE WITH OCD

If you are employing a worker with OCD, there are five key areas that you are likely to need to consider:

- Your employee's disclosure of their OCD
- Your duties to them under the new Equality Act 2010, for example making 'reasonable adjustments' for them
- Confidentiality
- Health & safety (H&S) issues
- Sickness absence

DISCLOSURE OF OCD

A person with OCD may be reluctant to tell you about their condition, because they may fear that it will affect their employment prospects and lead to stigma or ridicule in the workplace. Disabled people are not under a legal obligation to disclose their disability or long-term health condition (and OCD can be classed as a Disability under the Equality Act). However, if they choose not to disclose their OCD to you, then this may affect their ability to assert their Legal rights under the Equality Act 2010.

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WHAT IS THE EQUALITY ACT 2010

The Equality Act brings together over 116 separate pieces of legislation into one single Act. Combined, they make up a new Act that will provide a legal framework to protect the rights of individuals and advance equality of opportunity for all.

The Act simplifies and strengthens the current legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

The Act includes a new Public Sector Equality Duty. It is proposed that the Public Sector Equality Duty will come into force in England and in Scotland from April 2011, and in Wales in Spring/Summer 2011. The Duty will cover all the protected grounds: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion and belief and sexual orientation. The Disability Equality Duty in the existing legislation will be replaced by this.

DISABILITY (NEW DEFINITION AND CHANGES)

The Act has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and longterm adverse effect on their ability to carry out normal day-to-day activities, which would include things like using a telephone, reading a book or using public transport.

As before, the Act puts a Duty on you as an employer to make 'reasonable adjustments' for your

staff to help them overcome disadvantage resulting from an impairment (eg, for someone with OCD this could mean giving them flexibility over coming in slightly later if they have compulsions to check their home before coming to work). 'Reasonable adjustments' are defined in guidance available from the TUC or the Equality and Human Rights Commission and many other work related organisations.

Deciding what is 'reasonable' can be an area for debate but some past examples have included:

- Allowing the employee to have flexible working hours
- Allowing the person to take more frequent breaks
- Providing a workplace 'buddy'
- Changing the person's work duties
- Altering supervision or appraisal methods
- Redeploying the person into a different role
- Building in time so that people can attend therapy or hospital appointments

For more information about meeting the costs of 'reasonable adjustments' please contact your nearest Job Centre or access www.directgov.uk.

OTHER TYPES OF DISCRIMINATION

The Act includes a new protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavourably because of something connected with their disability (eg, a tendency to need extra time to recheck information or figures before submitting them). This

type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is 'a proportionate means of achieving a legitimate aim'. Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you could justify this, it would be unlawful.

The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work.

PRE-EMPLOYMENT HEALTH-RELATED CHECKS

The Equality Act limits the circumstances when you can ask health-related questions before you have offered the individual a job. Up to this point, you can only ask health-related questions to help you to:

- Decide whether you need to make any 'reasonable adjustments' for the person to the selection process
 - Decide whether an applicant can carry out a function that is essential ('intrinsic') to the job
 - Monitor diversity among people making applications for jobs
 - Take positive action to assist disabled people
 - Assure yourself that a candidate has the disability where the job genuinely requires the jobholder to have a disability
- A jobseeker cannot take you



For more information on OCD please access the OCD Action website which will tell you in detail about the condition.
www.ocdaction.org.uk

ACCORDING TO THE TUC, ONE IN SIX WORKERS WILL BE EXPERIENCING STRESS, ANXIETY OR DEPRESSION.

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to an Employment Tribunal if they think you are acting unlawfully by asking questions that are prohibited, though they can complain to the Equality and Human Rights Commission. However, if you do ask these prohibited questions, and not employ the applicant, they may bring a claim of discrimination against you and the burden of proof would be on you to demonstrate that you had not discriminated. Once a person has passed the interview and you have offered them a job (whether this is an unconditional or conditional job offer) you are permitted to ask appropriate health-related questions.

HEALTH AND SAFETY AT WORK ACT 1974

Whilst there is generally no legal obligation to disclose a disability, there is an obligation for employees to disclose their disability under the 'Health and Safety at Work Act 1974', if issues resulting from that disability are likely to put either themselves or others at risk. Employers should think about the welfare of their workforce and of the public, but this Duty should not be used as an excuse to discriminate against or stop a person with a mental health issue doing their job if they are performing it safely within the remit of the law. You can get further information about Health and Safety issues, disability and the Law at 'The Health and Safety Executive'. www.hse.gov.uk

SICKNESS

Most people with OCD are acutely aware of their condition and are often very worried about missing work or having to take time off. The nature of the condition often means that they are very conscientious and organised and take commitments very seriously.

In this respect they are no more likely to take more sick leave than an average employee; however, they may sometimes have to attend hospital or therapy appointments.

TUC Guidance in 'Representing and supporting members with mental health problems at work' indicates that ideally there should be a provision for allowing people to take 'disability leave' to attend counselling, go for hospital appointments. www.tuc.org.uk

THE POSITIVE EFFECTS OF EMPLOYING SOMEONE WITH OCD IN YOUR WORKFORCE

■ Including people with a disability of any sort will enrich and benefit your workforce.

It will challenge prejudice and break down stereotypes and introduce a new team dynamic into the workforce.

■ If you recruit someone with OCD into your work force, they are likely to show a high level of commitment and loyalty to you.

■ You will have contributed significantly to the confidence and self esteem of the person with OCD who may have been struggling with the idea that they might be rejected as an

employee if they disclosed their condition. A person who is understood and who feels valued in their work, is likely to deliver their very best to you as an employee.

■ Employers who visibly support the community by displaying a commitment to Equal Opportunities by employing a diverse work force and who openly demonstrate community involvement by sponsorship and charitable giving, in the main receive better patronage from the public.

CONFIDENTIALITY

Any information disclosed to you by an employee about their OCD should be treated in line with Data Protection Legislation. (Please see Data Protection Act 1998) www.direct.gov.uk

You could even apply for the 'two ticks' disability symbol which you can use on job adverts and in general advertising. This shows the public that you have made a commitment to employing disabled people.



If you would like further information about OCD please contact the OCD Action Helpline on 0845 3906232 or visit www.ocdaction.org.uk

OCD Action takes every care to make sure that information is up to date and accurate, the charity however, does not offer legal advice. Please consult a legal expert if you need specific legal information about your case.