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Managing Drivers with Diabetes

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Introduction

Most people within the UK who have been diagnosed with diabetes can still drive without any interference with their licence. Whether the drivers licence is affected is based upon the answers to three principle questions:

1. What medication is used to control it?
2. How well controlled is it?
3. Whether there are any other health issues that may impair the ability to drive?

What is important for the drivers and their managers is that they understand and comply with the relevant rules. A failure to do so can have serious repercussions and potentially void any insurance cover. Different licenses have different requirements so managers and drivers must ensure that they apply the correct rules to the particular licence. This guidance document is produced in an attempt to guide the manager and the driver through any issues ensuring that they are properly managed and that they remain within current UK legislation.

Types of Diabetes

Many people refer to type 1 and 2 diabetes and forget that in fact there are numerous types. There are 12 identified forms of diabetes. For the purposes of this document we will focus on those that will be more prevalent within employees and drivers.

Type 1 Diabetes: is an autoimmune disease that causes the insulin producing beta cells in the pancreas to be destroyed, preventing the body from being able to produce enough insulin to adequately regulate blood glucose levels. Insulin dependent diabetes is another term that may sometimes be used to describe type 1 diabetes.

Because type 1 diabetes causes the loss of insulin production, it therefore requires regular insulin administration either by injection or by insulin pump. Symptoms for type 1 diabetes include;

- Above average thirst
- Tiredness during the day
- Needing to pass urine frequently
- Unexplained weight loss
- Genital itching

Type 2 Diabetes: mellitus is a metabolic disorder that results in hyperglycaemia (high blood glucose levels) due to the body:

- Being ineffective at using the insulin it has produced; also known as insulin resistance and/or
- Being unable to produce enough insulin

Type 2 diabetes is characterised by the body being unable to metabolise glucose (a simple sugar). This leads to high levels of blood glucose which over time may damage the organs of the body.

From this, it can be understood that for someone with diabetes something that is food for ordinary people can become a sort of metabolic poison.

This is why people with diabetes are advised to avoid sources of dietary sugar.

The good news is for very many people with type 2 diabetes this is all they have to do to stay well. If you can keep your blood sugar lower by avoiding dietary sugar, likely you will never need long-term medication.

Type 2 diabetes was formerly known as non-insulin-dependent or adult-onset diabetes due to its occurrence mainly in people over 40. However, type 2 diabetes is now becoming more common in young adults, teens and children and accounts for roughly 90% of all diabetes cases worldwide.

Gestational Diabetes: occurs when you have hyperglycaemia (high blood glucose levels) during pregnancy. Gestational diabetes usually develops in the third trimester (between 24 and 28 weeks) and typically disappears after the baby is born.

Women who develop gestational diabetes during pregnancy are more likely to develop type 2 diabetes later on in life.

Latent Autoimmune Diabetes of Adulthood (LADA): is a form of type 1 diabetes that develops later into adulthood. This is the type of diabetes that many organisations will encounter more of due to the general ageing demography of the driving community. Referred to basically as type 1 diabetes however it shares some of the characteristics of type 2 diabetes. Its symptoms include;

- Feeling tired all the time or regularly tired after eating meals
- Foggy headedness
- Feeling hungry soon after eating

As LADA develops in the person and their ability to produce insulin decreases other symptoms may appear such as;

- Hard to quench thirst
- Frequently needing to urinate
- Blurred vision
- Tingling nerves

Mody Diabetes: Maturity Onset Diabetes of the Young affects approximately one or two per cent of people who have diabetes, and may often go unrecognised in its early stages. It is a form of diabetes that develops before the patient reaches 25. It also runs in families, and can pass from one generation to the next. MODY does not always require insulin treatment. There are 6 identified forms of Mody Diabetes.

Steroid induced Diabetes: Corticosteroids are used to reduce harmful inflammation but can lead to diabetes – often referred to as steroid diabetes. People on steroids who are already at a higher risk of type 2 diabetes or those who need to take steroids for longer periods of time are the most susceptible to developing steroid induced diabetes. People will take steroids for a number of legitimate reasons.

Steroids are taken to reduce inflammation, brought on by the body's immune system, and can be taken as treatment for a number of illnesses that include, Asthma, Lupus, Rheumatoid arthritis, Crohn's disease and Ulcerative colitis. Many professional drivers across the UK will currently have diagnosis of these and be taking medication to manage the symptoms.

It is therefore important for organisations with occupational health teams to understand these links and for managers to look for changes in symptoms and behaviour and ask relevant questions[1].

Diabetes and the Equality Act

Many people with Diabetes will fall into the 'disability' definition within the Equality Act due to it being a lifelong condition and having the implication to affect a person's ability to do the usual day to day activities. Some people will need some reasonable adjustments to take place.

It is therefore essential for managers to recognise the need to comply with the Equality Act 2010 in every case when managing a driver with diabetes. This will need to be assessed on a case by case basis. The Equality and Human Rights Commission (ECHR) has issued further guidance to employers[1]. Diabetes UK have also issued guidance to employees to ensure that they can navigate the legal landscape and understand their rights[2].

The Equality Act 2010 defines 4 types of discrimination:

1. DIRECT: Treating someone less favourably than they would another because they possess one of the protected characteristics. This is normally a day to day interaction/conversation that we have that is discriminatory.
2. INDIRECT: this is where someone applies a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic. For provision criterion or practice read policies and procedures of an organisation. They must not be discriminatory.
3. BY ASSOCIATION: this is where someone is treated less favourably because they are linked or associated with someone who has a protected characteristic. So this is where discrimination occurs against someone because they are linked or associated to someone who possess one of the 9 protected characteristics.
4. BY PERCEPTION: this is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not possess that characteristic.

The Equality Act 2010 creates additional matters in relation to harassment;

A person harasses another if they engage in unwanted conduct related to a relevant protected characteristic AND the conduct has the purpose or effect of (1) violating someone's dignity OR (2) creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Further they also harass an individual if they engage in unwanted conduct of a sexual nature and the conduct has the purpose or effect of :- (1) violating someone's dignity OR (2) creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Further a person is also harassed if they or another engage in unwanted conduct of a sexual nature or that it is related to gender re-assignment or sex and the conduct has the purpose or effect of: (1) violating someone's dignity; or (2) creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual, and because of someone's rejection of/or submission to the conduct they are treated less favourably than they would treat the individual had they not rejected or submitted to the conduct.

KEY NOTE: - In deciding whether the conduct has (1) violating someone's dignity OR (2) creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Each of the following must be taken into account (a) the perception of the individual (b) the other circumstances of the case (c) whether it is reasonable for the conduct to have that effect.

VICTIMISATION: A person victimises another if they subject them to a detriment because: - (a) they have done a protected act or (b) they believe that they have done or may do a protected act. Each of the following is a 'protected act':

[1] https://www.equalityhumanrights.com/en

[2] http://www.legislation.gov.uk/ukpga/2010/15/contents

— Bringing proceedings under this act
— Giving evidence or information in connection with proceedings under this act.
— Doing any other thing for the purpose of or in connection with this Act
— Making an allegation that that person or another person has contravened this Act.

The act also requires organisations to make what are termed 'reasonable adjustments' for an employee with dementia. It is important to ensure that you take proper professional advice as to what extent these adjustments should be as it will depend on the size and resources of the organisation. It must also be noted that any costs cannot be passed to the employee although there are grant facilities available through such services as Access to Work.

Reasonable adjustments falls into three categories:

1 The first requirement is where a provision, criterion or practice puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, to take such steps as is reasonable to have to take to avoid the disadvantage.

2 The second requirement is where a physical feature puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, to take such steps as is reasonable to have to take to avoid the disadvantage

3 The third requirement is where a disabled person would but for the provision of an auxiliary aid be put at a substantial disadvantage in comparison with persons who are not disabled to take such steps as is reasonable to have to take to provide the auxiliary aid.

It is vitally important that professionally trained HR representatives support managers who identify a worker, particularly one who is employed as a driver, who may have diabetes. Meetings with such employees need to be well prepared and managed to ensure fairness and legal compliance[2].

Driving and Diabetes

As stated earlier, a diagnosis of diabetes does not necessarily mean a loss of licence or that they will not be able to do certain jobs including driving. Drivers and managers must refer to online guidance from either the Driver and Vehicle Licensing Agency (DVLA) or the Driver and Vehicle Agency (DVA) (Northern Ireland).

Different licence holders have different responsibilities. Your medical professional can offer some guidance regarding the need to report to DVLA/DVA however it is vital that drivers access the website and if in any doubt complete the notification. For the standard UK driving licence, the threshold for notification to DVLA/DVA is if;

— The driver has/had insulin treatment that lasts or will last over 3 months
— The driver had gestational diabetes (associated with pregnancy) and the insulin treatment lasts over 3 months after the birth
— The driver gets disabling hypoglycaemia (low blood sugar) or has been advised by a medical professional that they are at risk of developing it.

The reporting can be completed either on line or via a traditional form which are both directly accessible from the DVLA website[3].

Where the driver is licensed to drive large goods vehicles (LGV's) or passenger carrying vehicles (PCV's) there are slightly different systems and restrictions in place. Where the diabetes is treated with diet and/or diet and tablets then the driver can continue to hold the relevant licence. Where the diabetes is insulin treated then the driver will lose the entitlement to drive vehicles within classes;

— C1/C1+E. This will include all of the following categories, C1, C1E, D1, D1E, C, CE, D and DE
— This will include vehicles between 3.5 and 7.5 tonnes with a trailer, up to a combined weight of 8.25 tonnes.
— The driver can request to be individually assessed to drive these vehicles. In which case the driver MUST meet certain conditions. They MUST;
— Have had no episodes of hypoglycaemia at the wheel in the past 12 months
— Receive an assessment from a diabetes consultant at least annually
— Regularly test blood glucose levels, especially proximate to driving
— Have stable blood sugar control on insulin for at least 1 month
— Have no other conditions that would invalidate any application for the licence
— Sign a declaration to follow a medical professionals decisions and to report any significant changes in the condition to the DVLA/DVA3.

[3] https://www.gov.uk/diabetes-driving

It can be seen, particularly for those specialist LGV/PCV drivers that any suspicion relating to a diagnosis of diabetes can potentially put into jeopardy their ongoing employment. Thus creating a real risk that for some drivers there is a real incentive to remain silent and/or hide the signs and symptoms. For this reason it is important for line managers to ensure that systems and processes to assess performance includes health questions. Organisations must be alive to the need for proper robust management systems that every manager is alive too, so as to ensure the safe operation of the driving fleet.

This can be particularly important to organisations that may use random temporary drivers to support activities including schools who may use teachers and parents to support daily activities and special events.

References

1 Diabetes UK - https://www.diabetes.org.uk/guide-to-diabetes/life-with-diabetes/driving/driving-licence

https://www.diabetes.org.uk/guide-to-diabetes/life-with-diabetes/driving

2 UK Gov. Legislation - http://www.legislation.gov.uk/ukpga/2010/15/contents

3 DVLA/DVA - https://www.gov.uk/diabetes-driving

Further information

For access to further RMP Resources you may find helpful in reducing your organisation's cost of risk, please access the RMP Resources or RMP Articles pages on our website. To join the debate follow us on our LinkedIn page.

Get in touch

For more information, please contact your broker, RMP risk control consultant or account director.

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