

Fair treatment at work

your rights if
you are disabled

*What should my employer
do to help me?*

*What can I do
if I'm treated
unfairly?*

*Can I be sacked
because I'm
disabled?*

0845 345 4 345

www.communitylegaladvice.org.uk

See page 10 for useful phone
numbers and website addresses

A free and confidential advice
service paid for by Legal Aid

community
legal advice

Community Legal Advice

This guide has been produced by Community Legal Advice (CLA), a free and confidential advice service paid for by legal aid.

Community Legal Advice provides:

- advice leaflets on a range of topics
- a helpline **0845 345 4 345**
- a website

www.communitylegaladvice.org.uk

People on a low income can get free, specialist legal advice from the CLA helpline.



If you're disabled, you don't have to put up with being treated worse than other people because you have an impairment.

When someone treats you unfairly because you're disabled, it could be because they don't understand your needs, not because they deliberately refuse to help. But whatever the reason, treating someone unfairly is discrimination and, in many situations, is against the law.

Discrimination often happens in the workplace, either when you are at work, or when you apply for a job. But it can also happen, for example, in shops, businesses and other organisations you deal with.

This leaflet explains what disability discrimination means and how the law works, and answers some commonly asked questions about discrimination at work.

To find out more, see the section 'Where can I get help and advice?' on page 10.

How should I be treated when I apply for a job?

A prospective employer should as far as possible treat you like anyone else when you apply for a job (or a promotion). They could be breaking the law if they treat you worse than someone else just because of your disability.

What should my employer do for me at work?

The law says that your employer must not treat you worse than someone else just because of your disability:

- when you apply for a job or a promotion
- in the terms of your job, such as pay, holidays and working conditions and
- if they need to make some staff redundant.

The law also says that, if you need some flexibility in how you work, or extra equipment, your employer must make 'reasonable adjustments' to the workplace or working arrangements so you can do your job.

What adjustments can I expect an employer to make for me?

Employers are expected to make 'reasonable adjustments' for employees with disabilities. They are only required to do this if they are aware that you are disabled. It is up to you to keep them informed. 'Reasonable adjustments' could be, for example:

- providing a different keyboard, phone or lighting
- providing extra training
- giving you a parking space at work
- moving a workstation so you can use it while in a wheelchair or
- changing your working hours to fit in with a care assistant.

However, what is reasonable depends on the circumstances. For example, an employer with many staff would probably be expected to make greater adjustments than one with few.

What can I do if I've been treated unfairly?

If you've been treated unfairly because of your disability, you could start by explaining the problem to your employer. Sometimes people discriminate because they don't understand your needs. But sometimes they don't understand their legal obligations – you may need to explain that, under the Disability Discrimination Act, they must make 'reasonable adjustments' to help you do your job.

If you don't think you can raise the matter with your employer, or if you've tried and they haven't helped, then the **Advisory, Conciliation and Arbitration Service (ACAS)** may be able to help. ACAS is an independent organisation that can help you come to an agreement with your employer (about promotion or compensation, for example).

How can I use the law to get justice?

If you don't want to negotiate with your employer, or if you have tried and it hasn't worked, you can make a claim to an employment tribunal under the Disability Discrimination Act.

If you win your claim, the tribunal may force the employer to pay you compensation for:

- any financial loss (for example, lost pay) and
- injury to your feelings.

It can also declare formally that you have been discriminated against and can recommend to your employer what action it should take. However, if your discrimination claim is about being dismissed, the employment tribunal cannot force the employer to give you back your job.

How do I bring a discrimination claim?

In most cases, you should first write to your employer explaining how you have been discriminated against and ask them to sort out your complaint. It's best to get expert advice before writing a letter.

You can make a claim directly to an employment tribunal, but if you do this without contacting your employer first, the tribunal may give you less in compensation if you win your case.

Do I have to leave work to make a claim?

No, you don't have to leave your job to claim. But you'll need expert advice to make sure you prepare your claim properly.

The law also protects you from 'victimisation', which is when your employer treats you worse than your colleagues because you've made a complaint. If a tribunal finds you have been victimised, your employer may have to pay extra compensation.

How long do I have to bring a claim?

There are set time limits for bringing a claim in an employment tribunal. The key date is when the discrimination happened – the tribunal must receive your claim within three months minus one day from this date.

If you miss the limit the employment tribunal won't look at your case. It can sometimes be difficult to work out when this date is, so it's important to seek advice as soon as you think that you are being discriminated against.

What do I need to show the tribunal?

At an employment tribunal, you must show you were treated worse than other people (normally your colleagues) for a reason to do with your disability. Or you must show that the employer hasn't made an adjustment it should have made. You can get the evidence for this after you formally start a claim by sending a special form to your employer asking for their reasons for your treatment.

You can get more information about this form, and the employment tribunals process, from the **Equality and Human Rights Commission** – their contact details are on page 10.

How the law defines 'disabled'

Many disabled people don't like to think of themselves as having a disability, but they still have protection from discrimination. The government estimates that one in five people of working age has some kind of disability.

The law says you're disabled if you have a physical or mental 'impairment' that has a major, long-term effect on how well you can carry out normal day-to-day activities. For example, the impairment may affect:

- mobility (getting around), and being able to lift, carry or move everyday objects
- manual dexterity (using your hands) and physical co-ordination
- continence (being in full control of bodily functions, such as passing urine)
- speech, hearing or eyesight
- memory or ability to concentrate, learn or understand and
- awareness of potential dangers (such as crossing a road).





If your impairment comes and goes, it normally counts as a disability only if it has a 'substantial adverse effect' that is more likely than not to come back in the future. But people with cancer, HIV infection or multiple sclerosis (MS) are treated as being disabled from the time they contract the condition.

If you are not sure whether you are disabled in the eyes of the law, contact the Equality and Human Rights Commission (see 'Where can I get further help?' on page 10) for advice.

How the law defines discrimination

Discrimination means being treated worse than another person in the same situation because of your disability.

It can happen if:

- you are treated worse (in legal terms, 'less favourably') simply because you are disabled, or for a reason to do with your disability or
- an organisation does not try to remove or reduce the barriers that you face because you are disabled.

Discrimination against disabled people happens most often at work or when applying for a job. But it's also against the law to discriminate against you in other situations, including:

- when buying or using goods and services
- when dealing with your council, the police and other 'public authorities'
- at a private club or association
- when buying or renting property or
- at a school or college.

Where can I get help and advice?

Community Legal Advice

We can give you contact details of solicitors in your area who deal with employment law.

We can also give help and advice on other problems: if you have a low income, including if you receive benefits, and qualify for legal aid, you can call us for independent advice about debt, education, benefits and tax credits, employment and housing problems

If you do not qualify for legal aid, or if you have another type of problem, we can put you in touch with other organisations, helplines or local advice centres services that can help. We direct you to other legal information resources.

How to contact us

You can speak to our advisers in several ways:

- Call us on **0845 345 4 345** from 9am to 8pm Monday to Friday or 9am to 12.30pm Saturday. Calls cost no more than 4p per minute from a BT landline. Calls from mobiles are usually more. Worried about the cost? Ask an adviser to call you back.
- Request a callback through our website, www.communitylegaladvice.org.uk
- Text 'legalaid' and your name to **80010** and we'll call you back within 24 hours.

Help on the internet

If you have internet, our website www.communitylegaladvice.org.uk has lots of help, including:

- our online directory of advisers, organised by areas of law
- more information about legal aid and who can get it
- online factsheets and leaflets that you can download, on lots of topics, and
- links to specialist organisations, charities and support groups in your area.

The Equality and Human Rights Commission (EHRC)

The EHRC is your main contact point if you think you've been discriminated against. Its website has advice and information about the steps you can take to deal with discrimination, including how to bring a claim in an employment tribunal.

phone: **0845 604 6610** (England);

0845 604 8810 (Wales)

textphone: **0845 604 6620** (England);

0845 604 8820 (Wales)

www.equalityhumanrights.com

The Advisory, Conciliation and Arbitration Service (ACAS)

ACAS can help you negotiate with your employer if you think it has discriminated against you.

phone: **08457 47 47 47** www.acas.org.uk

Can I get legal aid?

If you need help with the costs of legal advice, you can apply for legal aid. Whether you will get it will depend on:

- the type of legal problem you have
- your disposable (spare) income and how much disposable capital (money, property, belongings) you have
- whether there is a reasonable chance of winning your case, and
- whether it is worth the time and money needed to win.

There is an online calculator on our website, at www.communitylegaladvice.org.uk/en/legalaid where you can see whether you could be financially eligible for legal aid.

What if I think I am eligible?

If you think you could be eligible for legal aid, you should speak to a legal adviser who can deal with legal aid cases. You can search our directory to find an adviser in your area, at the 'Find a legal adviser' section of our website www.communitylegaladvice.org.uk or call our helpline 0845 345 4 345.

Help for other problems

This leaflet is one of a series of free leaflets produced by Community Legal Advice giving easy-to-read advice on a range of problem areas. The leaflets in this series are:

- C1 Dealing with rent problems**
- C2 Domestic abuse**
- C3 Fair treatment at work: your rights if you are disabled**
- C4 Your rights at work**
- C5 Dealing with debt**
- C6 Losing your home**
- C7 Claiming benefits**
- C8 Problems with school**
- C9 Mental health laws**
- C10 Community care**
- C11 Divorce and separation**
- C12 Living together**
- C13 Medical accidents**
- C14 Dealing with the police**
- C15 Care proceedings**
- C16 Claiming asylum**
- C17 Removal and deportation**
- C18 Dealing with a will**

You can order any of these leaflets free by:

- phoning **0845 3000 343**
- faxing **0845 5438 258**, or
- emailing orderleaflets@communitylegaladvice.org.uk.

All these leaflets are also available in Welsh, Braille and Audio.



The Legal Services Commission manages the Community Legal Service and Community Legal Service Fund (legal aid). To find out more about us, visit www.legalservices.gov.uk

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