Disability discrimination at work

Disability is one of 9 ‘protected characteristics’ covered by discrimination law (Equality Act 2010). The law protects people against discrimination, harassment and victimisation at work.

Employers must do all they reasonably can to protect people from discrimination and take steps to prevent disability discrimination at work. This includes recognising the benefits of having an inclusive and diverse workforce that does not exclude disabled people.

It’s important to understand that:

- most disabled people were not born with their disability
- anyone could become disabled at any stage of their working life
- some disabilities are not obvious to others – often called non-visible, invisible or hidden disabilities
- not everyone who’s protected by discrimination law will consider themselves to be disabled

Discrimination can also be because of more than one protected characteristic – for example disability as well as race, religion or belief, sex, or sexual orientation.

1. Who is responsible

Anyone who discriminates against someone at work is responsible for their own actions.

Employers can be held responsible too – this is called ‘vicarious liability’.

Employers also have a responsibility – a 'duty of care' – to look after the wellbeing of their employees. If an employer does not do this, in some cases it could lead to a serious breach of someone's employment contract. If an employee feels they have no choice to resign because of it, the employer could face a claim of constructive dismissal.

All employers must take steps to prevent disability discrimination happening in the first place.

By law, employers must also make ‘reasonable adjustments’ for disabled employees and job applicants. If they do not do this, it could be discriminatory (the legal term is 'failure to make reasonable adjustments').

Public sector organisations have an extra legal responsibility to stop discrimination, harassment and victimisation, under the public sector equality duty.

What discrimination law covers

Discrimination law covers:
• direct or indirect discrimination – when someone is put at a disadvantage and treated less favourably because of a protected characteristic, for example disability
• harassment – when bullying or unwanted behaviour is related to a protected characteristic
• victimisation – when someone is treated differently or less favourably because they made or supported a complaint to do with a protected characteristic, or someone thinks they did or might do

Find out about the different types of disability discrimination

Who is protected by disability discrimination law

At work, the law protects the following people against discrimination:

• employees and workers
• contractors and self-employed people hired to personally do the work
• job applicants – find out more about discrimination when applying for a job

It's against the law to discriminate against someone because:

• they have a condition or impairment considered a disability by law – find out what disability means
• it's believed they have a disability even if that's not true
• they know someone who's disabled, for example a family member, friend or colleague
• they have another association with disability, for example they volunteer for a disability charity

Read examples of different types of discrimination

Past disability

The Equality Act 2010 also protects people who are no longer disabled but had a disability in the past.

Examples could include:

• someone is turned down for a promotion because of a high absence record in the past, when their employer knew this was because of a serious injury that was considered a disability
• someone is harassed at work because of a past mental health condition

When an employer can make a decision based on disability

In some cases, it may not be against the law for an employer to make a decision based on someone's disability. But the law in this area can be complex. It's a good idea for employers to get legal advice first.

Find out more about when an employer may make a decision based on disability

Coronavirus (COVID-19) and disability discrimination

Disabled people and many people with health conditions have been disproportionately affected by the COVID-19 pandemic.

During the pandemic, employees and workers have the same rights as usual to not be discriminated against at work because of
disability.

By law, employers must consider this when they make any decisions related to the pandemic, for example:

- workplace safety
- returning to work
- ways of working, for example flexible working or hybrid working
- supporting staff who are at a high risk from COVID-19
- redundancy

Read our coronavirus (COVID-19) advice for employers and employees