

Disability discrimination

1 . The law on disability discrimination

Disability is one of 9 'protected characteristics' covered by discrimination law (Equality Act 2010).

Disability discrimination includes direct and indirect discrimination, harassment and victimisation.

Disability discrimination can happen in any aspect of work. It can result from decisions made at work or from how people behave towards each other.

It could be a regular pattern of behaviour or a one-off incident. It can happen in the workplace, at work social events or when people are working remotely.

Terms used around disability

We use the social model of disability, that says people are disabled by barriers in society, not by their impairment or difference. We generally use the term 'disabled people' rather than 'people with disabilities'.

Some people will use different terms to describe themselves. There's no one term that everyone will prefer.

What disability means by law

The Equality Act 2010 sets out when someone is considered to be disabled.

The law says someone is disabled if both of these apply:

- they have a 'physical or mental impairment'
- the impairment 'has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities'

A small number of conditions and impairments are automatically classed as a disability.

[Find out more about what disability means by law](#)

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
- former employees – usually around providing references

If someone does not tell their employer they're disabled

Nobody has to tell their employer – or potential employer – that they're disabled.

Reasons for not saying anything could include:

- they do not realise their condition is considered a disability by law
- they do not think of themselves as disabled
- they're worried about how their employer might react
- they do not want anyone to know

Employees are still protected from discrimination if their employer could reasonably be expected to know they have a disability.

Find out more about:

- [talking about disability at work](#)
- [considering whether someone has a disability](#)

Past disability

The Equality Act 2010 also protects people who had a disability in the past.

For example:

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

Understanding more about discrimination

[Find out about the different types of disability discrimination](#)

If you need more general discrimination advice, you can read [discrimination and the Equality Act 2010](#). This includes advice on employer responsibilities and on other protected characteristics.

Contact the Acas helpline

If you have any questions about disability discrimination at work, you can [contact the Acas helpline](#).

2. Types of disability discrimination

Some types of discrimination apply to all 'protected characteristics', including disability. These are:

- direct discrimination
- indirect discrimination
- harassment
- victimisation

For full definitions of each type of discrimination, read our advice on [discrimination and the Equality Act 2010](#).

There are also 2 types of discrimination unique to disability. These are:

- discrimination arising from disability
- failure to make reasonable adjustments

Direct discrimination

Direct disability discrimination is when someone is put at a disadvantage or treated less favourably because:

- they're disabled
- they have a connection with someone who's disabled – this is called 'discrimination by association'
- someone else thinks they're disabled when they are not – this is called 'discrimination by perception'

[Read the full definition of direct discrimination](#)

Example of direct discrimination

Mo has a job interview and is offered the job. After Mo tells the employer about their disability, the employer withdraws the job offer. The employer then offers the job to someone who's not disabled. If the employer's reason for withdrawing the offer was because Mo is disabled, this is direct discrimination.

Example of discrimination by association when there's a close connection

Jo has a disabled child. They take several days off at short notice to take their child to medical appointments related to their disability. Jo overhears their manager say, "the amount of time off that child causes is not acceptable". The next day, Jo is dismissed. If the employer's reason is because of the time off, this is likely to be discrimination by association.

Example of discrimination by association when there's not a close connection

Pat volunteers at the weekends, driving a minibus to take people with a learning disability on day trips. Pat's manager sees Pat doing this. At work, the manager makes inappropriate and offensive comments about Pat and the people on the trip. The manager also starts finding excuses to exclude Pat from team activities. This is discrimination by association. It could also be harassment.

Example of discrimination by perception

Raja has been behaving differently lately because of an upsetting personal situation outside of work. Some people in the team complain about Raja's 'unpredictable' behaviour. They spread rumours that Raja has a serious mental health condition. They continue to do this, even after Raja explains the situation and says sorry for behaving differently.

This could be discrimination by perception. The people at work wrongly believe Raja has a mental health condition and they're treating Raja less favourably because of this.

Indirect discrimination

Indirect disability discrimination is when a working practice, policy or rule applies to everyone but puts a person or group at a disadvantage because of their disability.

[Read the full definition of indirect discrimination](#)

Example of indirect discrimination

Jay has type 1 diabetes and works in a factory. The rest break policy says everyone has a lunch break at the same time, with no other breaks. Jay sometimes needs snacks between meals to help manage their diabetes.

Jay's employer says they will not make any changes to the policy. This is indirect discrimination.

It does not matter that nobody else with type 1 diabetes works in the factory. It is still indirect discrimination if the policy would disadvantage anyone who's affected by type 1 diabetes in the same way as Jay.

Discrimination arising from disability

'Discrimination arising from disability' is a type of discrimination. It means discriminating because of something that results from a disability, not because of the disability itself.

Things that result from someone's disability could include:

- absence from work because of regular hospital appointments
- a change in behaviour because of the medication someone is taking
- needing regular rest breaks or toilet breaks
- having an assistance dog

For this type of discrimination, the law applies if someone is treated 'unfavourably' or put at a disadvantage. It does not need a comparison with how other people are treated.

It does not apply if the person or organisation treating the person unfavourably did not know, and could not reasonably have known, about the disability.

Sometimes there can be 'objective justification' for discrimination arising from disability. This is where an employer has a genuine need to make a decision that leads to lawful discrimination. For example, something resulting from someone's disability might mean they cannot do a certain job even if reasonable adjustments are made.

Example of discrimination arising from disability

Mae has cancer. They need time off for hospital treatment and recovery. Their manager follows the company's procedure for too much absence. They give Mae a warning. This means Mae cannot apply for promotion.

This could be discrimination arising from disability. The company could have made a reasonable adjustment so this did not happen. For example they could record these absences differently from standard absences.

Failure to make reasonable adjustments

'Failure to make reasonable adjustments' is a type of discrimination. It can happen when an employer does not make reasonable adjustments for someone who needs them.

Adjustments are changes an employer makes to remove or reduce a disadvantage related to someone's disability. Employers must make reasonable adjustments by law. What is reasonable depends on each situation.

[Find out more about reasonable adjustments](#)

Example of a failure to make reasonable adjustments

Bobby's disability means they cannot work as quickly as others in the team. Bobby asks for their workload to be slightly reduced as a reasonable adjustment. The employer refuses. They say it's unfair if one person is allowed to do less work. This is likely to be a failure to make reasonable adjustments.

The employer might be able to justify their refusal if:

- Bobby had requested a much larger reduction of work and the organisation could not accommodate it
- they could offer a different reasonable adjustment to help Bobby manage a full workload

Harassment

Disability-related harassment is when someone experiences unwanted behaviour related to disability.

To be harassment, the unwanted behaviour must have either:

- violated someone's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment

[Read the full definition of harassment](#)

Example of harassment directed at a specific person

Shar sometimes loses their balance because they have multiple sclerosis (MS). People at work regularly make comments and jokes about it, which makes Shar feel humiliated and uncomfortable. This is harassment because of disability.

Example of harassment not directed at a specific person

Andi hears a group of people at work making offensive comments about someone who has a learning disability. Andi has also seen them getting the person in trouble by persuading them to do something wrong. Andi is intimidated and offended by this.

This behaviour is not aimed at Andi. But it could still be harassment if it's created a hostile environment for them at work.

Victimisation

Victimisation is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint.

It does not matter if the complaint was made by them or someone else. The law also protects someone from victimisation if someone else thinks they're involved with a complaint.

Ways someone can be victimised include being labelled a troublemaker, being left out, or not being allowed to do something.

[Read the full definition of victimisation](#)

Example of victimisation

Ali made a formal complaint because their manager did not make the reasonable adjustments they had agreed. Since then, Ali's manager has become very critical of Ali, picking on them in front of other staff. They've also stopped Ali from applying for promotion. Ali believes this is happening because of the formal complaint. This is likely to be victimisation.

When a decision on disability might not be discrimination

In certain circumstances under the law an employer might be able to make or justify a decision based on disability. For example:

- positive action – to help a disadvantaged or underrepresented group
- objective justification – for example when there's a genuine business need
- occupational requirement – when having a particular disability is essential for a job
- a disability discrimination exemption – when you can specifically advertise for and recruit a disabled person

Find out more about:

- [positive action](#)
- [objective justification](#)
- [an occupational requirement in recruitment](#)

Contact the Acas helpline

If you have any questions about disability discrimination, you can [contact the Acas helpline](#).

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3. Making and handling complaints

If someone has experienced or witnessed disability discrimination at work, they can make a complaint to their employer. The employer should take it seriously and look into it as soon as possible.

Disability discrimination can be very distressing and in some cases have a severe impact on someone's mental health and wellbeing.

Employers should make sure that:

- reporting disability discrimination is as easy as possible
- anyone who's experienced or witnessed it feels safe, protected and supported
- anyone accused of disability discrimination is treated in an impartial and fair way

If you've experienced disability discrimination

It's best to make a complaint as soon as possible. But if you make a complaint a long time after an incident took place, your employer should still take it seriously.

[Find out what to do if you've been discriminated against](#)

Witnessing disability discrimination

If you think someone at work is being discriminated against, there are actions you can take. This could include stepping in to try and stop it happening if you feel it's safe, supporting people or giving evidence.

Witnessing discrimination might also affect you personally. In some circumstances, you could make a harassment complaint yourself.

[Find out more about witnessing discrimination](#)

Handling a discrimination complaint

If you're an employer or manager, you should look into any discrimination complaint in a way that's fair and sensitive to:

- the person who made the complaint
- anyone who witnessed it
- anyone accused of bullying or discrimination

[Find out how to handle a discrimination complaint](#)

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4. Preventing disability discrimination

All employers should take steps to try to make sure disability discrimination does not happen at work.

As an employer, you should:

- aim for a culture where everyone accepts that disability discrimination is not acceptable
- recognise and promote the benefits of a diverse and inclusive organisation that does not exclude anyone because of disability

[Find out more about improving equality, diversity and inclusion](#)

Steps for preventing disability discrimination

Many ways to prevent discrimination apply equally to all 'protected characteristics'. You can find out more in our advice on [preventing discrimination](#).

Measures that are specific to preventing disability discrimination include:

- employing and supporting disabled people
- talking about disability
- making the workplace more accessible
- appointing a disability champion
- setting up a staff disability network
- having disability allies
- making sure managers understand their responsibilities

If you're a small organisation with limited resources, there's still a lot you can do to prevent discrimination. Making your organisation more inclusive does not have to be costly or complicated.

Employing and supporting disabled people

If you employ and support disabled people, you can:

- recruit and retain staff who often have more resilience and problem-solving skills through developing ways of living with a disability

- bring new skills to the organisation
- improve staff morale by treating everyone according to their needs

Find out more about:

- [following discrimination law throughout recruitment](#)
- [supporting disabled people at work](#)

Talking about disability

You should talk with your staff about appropriate language to use when discussing disability. This includes when you're speaking directly with someone who's disabled and in wider work communications.

Make it clear that ableist language is not acceptable. This means language that's inappropriate, offensive or negative towards disabled people. That includes things some might consider as 'banter' or jokes. You should also be sensitive in the terms you use around disability.

[Find out more about talking about disability at work](#)

Making the workplace more accessible

Accessibility at work is about removing barriers to make sure disabled people can take an active part in working life.

Employers should make sure their workplace, and the way they work, is accessible to as many people as possible. This includes anywhere staff are working, including working from home.

[Find out more about accessibility at work](#)

Appointing a disability champion

A disability champion is a senior member of staff who's committed to promoting equality and tackling disability discrimination. They do not have to be disabled.

They should be:

- willing and able to give time to the role
- senior enough to be able to influence decision-makers and make sure actions are taken

The role could include things like:

- chairing a staff disability network
- following developments in law and good practice
- writing a blog or newsletter to promote equality and diversity
- challenging other senior leaders to consider issues around disability
- raising issues that need addressing at a high level
- considering wider issues that can affect disabled people, for example the covid-19 (coronavirus) pandemic

Setting up a staff disability network

A staff disability network is a formal group for disabled staff and their allies to:

- share experiences
- support each other
- raise issues that need addressing

Having disability allies

Disability allies are people who are not disabled and want to help make their organisation inclusive. They can be from any part of an organisation, working at any level.

Disability allies should:

- help raise the profile of issues around disability and how to address and prevent them
- actively listen and try to understand people's experiences
- learn about disability discrimination and use what they learn to influence others

Supporting your staff network and disability roles

If you set up a staff disability network or any disability roles, make sure you support them. This includes:

- giving people the time to be involved
- actively listening to concerns raised
- taking steps to resolve issues

Making sure managers understand their responsibilities

You should make sure managers and supervisors understand their role in supporting disabled people. This includes:

- knowing how to handle a request for reasonable adjustments
- being confident to talk about disability
- being a role model of inclusive behaviour

Get more advice and support

If you need help to deal with any challenges in your organisation, you can:

- [contact the Acas helpline](#)
- [get tailored support for your organisation](#)

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