

Disability Discrimination Contents

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Disability Discrimination

Disability Status

Am I entitled to adjustments in the workplace because I have a disability?

- ▶ Under the [Equality Act 2010](#) your employer is required to make ‘reasonable adjustments’ so as to ensure that disabled people are not treated less favourably than non-disabled people. When deciding what is a reasonable adjustment, factors taken into account include the size of the business and the cost and practicality of the adjustment.

How do I prove my disability status?

- ▶ You must prove that you meet the legal definition of disabled in the [Equality Act 2010](#). This can be broken in to three stages: 1. Is there a physical or mental impairment? 2. Does the impairment have a substantial adverse effect on your ability to carry out normal day to day activities? 3. Is the substantial effect long term?
- ▶ It will not be enough to simply explain your disability to the judge, you should provide some concrete medical evidence such as medical reports, relevant GP records, specialist nurse or consultant reports. This evidence can be supplemented by your impact statement.

Impact Statement

How do I write an impact statement?

- ▶ An impact statement should reflect the impact that your disability has on your day-to-day life and so this will of course be different for every individual. You should set out what your impairment is, when you were diagnosed, the effect it has and give details about treatment and medication. More detailed information on Impact Statements can be found [here](#).

Types of claim

What are the different types of claim?

When completing your ET1 form, you will be asked to identify the claim you are making. You will tick one of the options and they will be as follows:

- ▶ Direct Discrimination
- ▶ Indirect Discrimination
- ▶ Discrimination arising from disability
- ▶ Victimisation
- ▶ Harassment
- ▶ Failure to make reasonable adjustments

Process

Internal v External

What is the difference between the processes?

- ▶ Your issue can be dealt with through an internal process or an external process. If you choose to deal with your issue internally then this means you resolve the matter within your workplace for example by speaking to your line manager or a member of the Human Resources department. Dealing with issues externally means involving ACAS and/or bringing a claim at the Employment Tribunal.

Which process should I use?

- ▶ If you are having problems at work related to your disability, you should speak to your line manager as soon as possible. You should try to resolve the issue internally first and if the problem is not resolved then you can contact ACAS to resolve the issue externally.

Stages of Employment Tribunal claim

What are the different stages when taking a claim to the Employment Tribunal?

- ▶ It is important to note that every case is different and proceed at different speeds. Please see [here](#) for a rough guide on the process of a claim in the Employment Tribunal and different types of order to expect.
- ▶ As a result of COVID-19, Employment Tribunals are being held virtually because of social distancing regulations. The Tribunal will discuss in detail with yourself and the Respondent whether a virtual hearing might be appropriate in your case. Please see [here](#) for more information on Virtual Hearings.

Time limits

What is the time limit?

- ▶ A claim for disability discrimination must be brought within three months minus a day from the act of discrimination or last act in a course of conduct of discrimination.

When must I notify ACAS?

- ▶ You must notify ACAS of your dispute before you submit your claim to the Employment Tribunal. This must be done within three months less day of the act of discrimination or last act in a course of conduct then this action will temporarily 'stop' the time bar clock. For more information on time bar please see [here](#).

What if my claim is time barred?

- ▶ If your claim is time barred, (i.e. submitted more than three months after the act or last act of discrimination, taking account of the early conciliation period) then it may still be allowed. However, your claim will be rejected if you did not go through the early conciliation period and will definitely not be allowed to proceed.

Can I extend the time limit for my case?

- ▶ It is possible to extend the time limit for a case of discrimination. Under Section 123 of the Equality Act, it is open to Claimants to argue that it is 'just and equitable' for the time limit to be extended.⁹

Paper apart



How do I answer question 8.2 of the ET1?



Your answer to question 8.2 will be very long and it is important make sure you set out clearly the legal complaints you are making. The best way to approach this is by setting out in short numbered paragraphs the outline of your case and legal complaints that follow. This makes it easier to read and to follow.



See [here](#) for key information you should include in the paper apart and the order in which you should set it out.

Amending ET1

When should I make an application to amend?

- ▶ An application to amend should be submitted as soon as possible. The sooner you submit it the more likely the Tribunal will allow it.

How do I make an application to amend?

- ▶ An application to amend a claim can be made at any stage in the proceedings but it is recommended to make the application as soon as you become aware that it is necessary. The application to amend can be made in writing or orally however it is recommended to make it in writing as it is easier for everyone to see what is being set out.

What if my application to amend is refused?

- ▶ If your application is refused it is possible to submit it for reconsideration where the judge will look over the application again to check their decision has been decided correctly. If the application to amend is refused after reconsideration, you can appeal this to the Employment Appeal Tribunal (EAT).

Judicial mediation

What is Judicial Mediation?

- ▶ Judicial mediation is a process in the Employment Tribunal where the Claimant and Respondent sit down with a judicial mediator and try reach agreement to resolve the case.
- ▶ It is a voluntary and confidential process that allows parties to explore whether they can resolve the case without infringing on their rights to take the case forward or defend the case at the end of the mediation if agreement cannot be reached.

Remedies

Financial remedies

Injury to feelings

- ▶ An award for injury to feelings is to compensate for the hurt and distress you have suffered as a result of the discrimination. It is to compensate for genuinely injured feelings, not to punish the employer. A financial award for injury to feelings will be determined based on what are called 'Vento bands'. There are three bands (from 6 April 2021).
 - ▶ Lower: £900-£9100
 - ▶ Middle: £9100-£27400
 - ▶ Upper: £27400-£45600

Psychiatric injury

- ▶ This is a term used in personal injury claims when the claimant has suffered damage to their mental health as a result of the treatment they received. You must be able to prove that the psychiatric injury was directly caused by the actions of your employer. Such evidence could include medical reports from your GP, consultant or a psychiatrist that link your psychiatric injury to your employer's actions.

Actual losses

- ▶ Actual losses refer to a sum of loss which you can directly link to the acts of discrimination. Actual losses vary on a case to case basis. In some cases, there may be no actual losses to claim for but in other cases, there may be a significant sum of actual losses.