

Employment

Applying

Asked about disability or health condition prior to job offer



**RIGHT TO
PARTICIPATE**

Useful knowledge

Apart from asking about any 'reasonable adjustments' required to participate in an interview or assessment, an employer is only allowed to ask about a disability or long-term health condition before making a job offer in very specific circumstances, as outlined below.

Otherwise, an employer must not ask you about your disability or health condition until after a job offer has been made. At that point, it's appropriate for an employer to ask about any reasonable adjustments you might need to fulfil the role.

Useful skills

- Effective communication
- Openness
- Self-awareness
- Problem solving

Ways to assert your legal rights

An employer can ask questions that address health or disability in four instances:

- To identify that a core function of a role can be met
- In the case of positive action e.g. if they have don't have many disabled staff at the moment and they want to increase the number
- Where a disability is a prerequisite for doing the job e.g. a deaf trainer may be the most suitable person to deliver courses to deaf people
- For monitoring purposes, where the identity of each candidate is anonymised.

Otherwise, if an employer asks you about your disability or health condition prior to making a job offer, you can contact the Equality and Human Rights Commission (EHRC) with your concerns. The EHRC may take action against the employer.

If an employer asks you about your disability or health condition prior to making a job offer, and then does not offer you the job, this could be discrimination due to disability. Ask for reasons outlining why the job offer has not been made to be put in writing. Put to them directly any concerns that the offer has not been made due to your disability.

If you're not satisfied with these reasons, and believe it may be disability discrimination, you can take a claim to an employment tribunal. There are timescales within which a claim should be made. In general, the time limit within which a claim of disability discrimination must be raised is three months less one day from the date of the discrimination taking place.

Before taking a current or former employer to an employment tribunal, you must first attempt what is termed 'early conciliation'. Early conciliation is a service delivered by the Advisory, Conciliation and Arbitration Service (ACAS), a publicly funded but independent organisation. Engaging early conciliation can reduce the stress and anxiety caused by taking a claim to an employment tribunal. If engaged within its own time limit (also three months less one day), early conciliation extends the time period for taking action via a tribunal, if you need to take it that far.

If you're a member of a trade union, it's worth engaging their support as early as possible, but at any stage of the process. [Find out more about joining a trade union.](#)

You can have confidence in the process because

Disabled employees are protected from discrimination, harassment and victimisation by The Equality Act 2010.

You can get more help from

The [Equality Advisory & Support Service \(EASS\)](#) runs a free helpline assisting individuals with equality and human rights issues across England, Scotland and Wales.

- Telephone** • 0808 800 0082
- Text phone** • 0808 800 0084
- Email** • [through websites form](#)

ACAS runs the [Early Conciliation service](#) for when you can't sort out things directly with an employer.

- Helpline** • 0300 123 1100
- Website** • www.acas.org.uk