

Employment

Current Employee

Disciplinary process



**RIGHT TO
PARTICIPATE**

Useful knowledge

An employer must consider whether conduct they believe is a disciplinary matter is related to your health condition or disability. If it is, they will need to be able to justify any action taken against you as being a 'proportionate means of achieving a legitimate aim'. If they can't do this, they will be discriminating against you (discrimination because of something arising as a consequence of disability).

The employer has to consider whether 'reasonable adjustments' would make a difference. They should also make all necessary reasonable adjustments to ensure you can participate fully in any disciplinary process.

Useful skills

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

Ways to assert your legal rights

If your employer takes disciplinary action against you, and you believe the action is a result of them not (a) having taken your disability or health condition into consideration or (b) fully understood it, you should raise this with the person or panel overseeing the action as soon as possible. Providing this information, or a reminder of it, may be enough to stop the action. However, if the process has commenced, then you should ensure this information is recorded as evidence, or as part of the investigation.

If you disagree with the findings of the disciplinary action, your employer's processes should allow you to make an appeal. Appeals should be made in writing and are normally heard by another staff member or manager who has played no part in the initial disciplinary process.

If you feel reasonable adjustments haven't been made by your employer to enable you to fully participate in the process e.g. you're off sick and unable to attend a pre-arranged meeting, the meeting goes ahead without you, and the findings exclude any evidence from you, then you should invoke your employer's grievance policy. This is normally found in a staff handbook or similar, which most employees are given when they join a company.

If you still don't get a satisfactory resolution and believe this may be disability discrimination, you can take a claim to an employment tribunal (ET). 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 a tribunal. If engaged within its own time limit (also three months less one day), early conciliation extends the time period for taking action via an employment 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