



Discrimination using services and public functions

Explains the law that protects you from discrimination when you use services or public functions, what you can do if you have been discriminated against and where you can get support and advice. Applies to England and Wales.

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Overview

Sometimes people are offered a worse service because of their mental health condition. This is called [discrimination](#) and, if you experience it when you use [services](#) or [public functions](#), you may have a legal right to challenge it.

Quick facts

- The [Equality Act 2010](#) is the law that gives you the right to challenge discrimination. You are protected under the Equality Act if you can show that you have been treated worse because of certain [protected characteristics](#), like a mental health problem.
- The Equality Act protects you from discrimination when you use services or public functions.
 - **Services** includes services provided by private companies (like hotels and restaurants), hospitals and government departments.
 - A **public function** is an act or activity taken by a public authority (like the police, NHS hospitals and government departments), which is not a service; for example, law enforcement or the collection of taxes.
- Organisations and people providing services or public functions have to [make adjustments for you](#) if your disability puts you at a disadvantage compared with others who are not disabled, and it is reasonable for them to do so.
- If a public authority has discriminated against you when providing you services or public functions, you might also be able to complain that they have not followed the [public sector equality duty](#).
- If you think you have experienced disability discrimination, there are several things you can do to [make a complaint](#).

Please note

- This guide covers discrimination when you use services or public functions from the point of view of a person with a mental health problem.
- This guide applies to England and Wales.
- This guide contains general legal information, not legal advice. We recommend you get advice from a specialist legal adviser or solicitor who will help you with your individual situation and needs. See [Useful contacts](#) for more information.

Terms you need to know

Term	Meaning
Advocate	An advocate is a person who can both listen to you and speak for you in times of need. Having an advocate can be helpful in situations where you are finding it difficult to make your views known, or to make people listen to them and take them into account. Find out more on our advocacy information page .
Anticipatory duty	Organisations and people who provide services or public functions and clubs and associations have to plan in advance to take account of the difficulties that disabled people may face. This means they must think and plan ahead to make sure that disabled people can access their services. This includes thinking about reasonable adjustments they could make.
County court	This is a court which deals with civil (non-criminal) matters. There are fees for starting a claim in the county court unless you get a fee remission. But if you have a low income, you may be able to pay a reduced amount, or none at all (called a 'fee remission'). Cases in the county court are in one of three tracks: <ul style="list-style-type: none"> • small claims track is where the amount of compensation you are asking for is less than £10,000 and your case is not complicated • fast track is where your case is more complicated but can be finished in a 1-day hearing • multi-track is where the claim is complicated, and/or will take longer than a 1-day hearing, and/or is for a larger sum of money Fast track and multi-track cases are costly and if you do not win your case, you usually have to pay the other person's legal costs.
Disability	The Equality Act says that you have a disability if you have an impairment that is either physical or mental and the impairment has a substantial, adverse and long term effect on your normal daily activities.

Disability discrimination	This is when someone is treated worse because of their physical or mental health condition. The Equality Act explains what a disability is and when worse treatment is discrimination. You have to show that you have a disability before you can challenge worse treatment as disability discrimination.
Discrimination	<p>There are many situations in which you may feel treated unfairly because of your disability, but the Equality Act only covers these types of discrimination:</p> <ul style="list-style-type: none"> • direct discrimination • discrimination arising from disability • indirect discrimination • harassment • victimisation • the duty to make reasonable adjustments
Equality Act 2010	<p>This is the law that explains:</p> <ul style="list-style-type: none"> • what behaviour counts as unlawful discrimination • who has a right to challenge discrimination
Human Rights Act 1998 (HRA)	This is a law that the government has brought in to protect our human rights in the UK.
Prohibited conduct	Prohibited conduct is the special term used in the Equality Act to cover behaviour that counts as unlawful. It covers discrimination, harassment, failure to make reasonable adjustments and victimisation.
Protected characteristics	<p>'Protected characteristics' is the name for the nine personal characteristics that are protected by the Equality Act in certain situations. They are:</p> <ul style="list-style-type: none"> • age • disability (this can include mental health problems) • gender reassignment • marriage and civil partnership • pregnancy and maternity • race • religion or belief • sex • sexual orientation
Public authorities	These are organisations whose role is of a public nature. This includes:

	<ul style="list-style-type: none"> • Police • NHS hospitals and employees • Local authorities and their employees • Some nursing and personal care accommodation providers • Prison staff • Courts and tribunals, including Mental Health Tribunals • Government departments and their employees • Statutory bodies and their employees (for example the Information Commissioner's Office)
<p>Public functions</p>	<p>This means an act or activity taken by a public authority which is not a service. A public authority carries out a public function when it performs its particular legal duties and powers. Examples of public functions are licensing, planning and enforcement of parking.</p> <p>Public authorities can get private companies or voluntary organisations to carry out their public functions. So for example, a private company that runs prisons and takes prisoners into custody would be considered a private company carrying out a public function.</p>
<p>Public sector equality duty</p>	<p>This is the legal duty which public authorities like councils, NHS hospitals and government departments have to follow. It means they have to consider how their policies and practices affect people with protected characteristics, like people with mental health problems.</p> <p>Private or voluntary organisations also have to follow the public sector equality duty when they carry out a public function on behalf of public authorities. For example, a private firm that is employed by a local council to collect council tax arrears needs to follow the public sector equality duty.</p>
<p>Reasonable adjustments</p>	<p>These are changes that:</p> <ul style="list-style-type: none"> • employers • organisations and people providing services and public functions • education providers like universities and colleges • managers of properties like landlords • clubs and associations <p>should make for you if you are at a major disadvantage because of your mental health problems and it is reasonable.</p>

	<p>Examples of reasonable adjustments include:</p> <ul style="list-style-type: none"> • making changes to the way things are organised or done • making changes to the built environment, or physical features like steps or doorways around you • providing aids and services for you
<p>Services</p>	<p>This includes services provided by:</p> <ul style="list-style-type: none"> • local councils like advice services or social work services and park and leisure services • government departments like prison education, job centres and court services • charities like information and advice services • private companies and people like hotels, restaurants, solicitors, accountants, telesales businesses, leisure centres, sports facilities, gas and electric companies, buses, trains, theatres, cinemas • places of worship • GPs, hospitals and clinics

Services and public functions

- [What is the Equality Act?](#)
- [When am I protected from discrimination?](#)
- [What are services and public functions?](#)

What is the Equality Act?

The [Equality Act 2010](#) is the law that gives you the right to challenge [discrimination](#). You are protected under the Equality Act if you can show that your mental health problem is a [disability](#), and you have been treated worse because of your mental health problem.

Do I have a disability?

To get protection under the Equality Act, you need to show that your mental health problem is a disability. 'Disability' has a special legal meaning under the Equality Act, and can include mental health problems. To find out more, see our [disability discrimination information page](#).

When am I protected from discrimination?

The [Equality Act](#) protects you from discrimination in certain situations; for example, when you:

- are at work ([see our pages on discrimination at work](#))
- use services or public functions
- are in education
- buy, rent or occupy premises ([see our pages on discrimination and premises](#))
- join some private clubs and associations

This guide only looks at how you are protected from mental health discrimination **when you use services or public functions**.

What are services and public functions?

The Equality Act protects you from discrimination when you use services or public functions.

Services

This includes services provided by:

- **private companies and people** like hotels, restaurants, solicitors, accountants, telesales businesses, leisure centres, sports facilities, gas and electric companies, buses, trains, theatres, cinemas
- **local councils** like advice services or social work services and park and leisure services

- **government departments** like prison education, job centres and court services
- **charities** like information and advice services
- **places of worship**
- **GPs, hospitals and clinics**

Services can:

- be provided to the public, or a section of the public
- be free, or you can pay for them
- provide goods and facilities, or information through a website
- follow special rules. For example, there are special rules for insurance services ([see our information on insurance cover and mental health](#)).

A service provider must not discriminate against people with disabilities:

- in the terms of the service it offers – like charging more or making it subject to conditions
- by taking away or refusing a service
- by treating them worse or putting them at a disadvantage

Public functions

A public function is an act or activity taken by a [public authority](#) (like the police, NHS hospitals, and government departments), which is not a service.

A public authority carries out a public function when it performs its particular legal duties and powers, for example licensing, planning or enforcement of parking.

- **Private companies or voluntary organisations.** Public authorities can get private companies or voluntary organisations to carry out their public functions. For example: planning application procedures, tax collection, enforcement of the law by the police and assessment and delivery of welfare benefits.
- **Public functions not covered by the Equality Act.** Some public functions are not covered by the Equality Act at all, including: procedure in parliament, conduct of a judge or someone on their behalf when they are carrying out work relating to judgments in a court of law, anything done to ensure that the armed forces are combat effective and functions of the Security Services and GCHQ.

What are the different types of discrimination?

If you want to complain that you have experienced [discrimination](#) because of your mental health problem, you have to show that what happened to you is one of these types of discrimination:

- [Direct discrimination](#)
- [Discrimination arising from disability](#)
- [Indirect discrimination](#)
- [Harassment](#)
- [Victimisation](#)
- [Duty to make reasonable adjustments](#)

To find out more about each of these types of discrimination, [see our information on disability discrimination](#).

Examples of direct discrimination



- Lena phones a holiday company to book a holiday cottage for the first week in June. They say it is available to let. She explains she has [borderline personality disorder](#). The company then says that she cannot rent the cottage.

On the same day her friend Zelda, who does not have any mental health problems, phones the same company and is allowed to book the cottage for the first week in June. The holiday company has refused a service to Lena because of her mental health problem. This is direct discrimination.

- Sylvie is a solicitor who represents people with mental health problems. She goes to a café and the owner tells her that he does not want her using his café because she acts for people with mental health problems. This would be direct discrimination – discrimination by association.

- Brook does not have a mental health problem. He is asked to leave a gym where he is exercising as the organiser hears a false rumour that Brook has [schizoaffective disorder](#). This is direct discrimination – discrimination by perception.

Example of discrimination arising from disability



Jeannette goes to her dentist for a routine appointment. She experiences panic attacks as one symptom of her long-term mental health condition. She suddenly runs out of the dental surgery in the middle of her treatment. The dentist says she is not prepared to treat her any more because of her behaviour.

The dentist is refusing Jeannette a service because of behaviour related to her disability. This may be discrimination arising from disability.

But her dentist can justify that the decision if she can show that:

- she treated Jeannette that way for a good reason, and it was appropriate and necessary in the circumstances, or
- she did not know or could not reasonably have known that Jeannette had a disability

Example of indirect discrimination



An outdoor centre provides a variety of activities from walks on gravelled areas to ones involving strenuous physical activities. Their policy says they will only let people do the activities if they have a medical certificate of good health.

Ensuring health and safety is reasonable, but applying a policy like this to every activity is likely to be indirect discrimination. This is because customers who had mental health problems would not be able to join any activities and so would be treated worse than other customers.

People with mental health problems might be quite capable of:

- doing any of the activities on offer as their mental health conditions would not affect their ability to take up exercise, or
- taking up the less strenuous activities

But it will not be indirect discrimination if the outdoor centre is able to justify this policy by showing that it is:

- for a good reason, and
- appropriate and necessary

Organisations providing services or public functions also have an [anticipatory duty](#) to make [reasonable adjustments](#) for disabled people. That means planning their services with the needs of people with mental health problems in mind. Read more about the [anticipatory duty to make reasonable adjustments](#).

Example of harassment



Patrick has been diagnosed with [schizophrenia](#). He goes to the counter to pay for his shopping in his local supermarket. The till operator tells him to hurry up and abuses him in front of other customers, referring to his mental health problem. Patrick is humiliated and distressed. This is harassment.

Example of victimisation



Sarah makes a complaint that her GP's receptionist has discriminated against her because of her mental health problem. As a result, her GP practice manager tells her she must leave the practice and register with another practice. This is likely to be victimisation.

Examples of duty to make reasonable adjustments



- A social worker plans a social care assessment for Fatima who finds it is difficult to concentrate or to participate meetings to discuss her needs. This is because she has been experiencing acute anxiety and agitation from her underlying [anxiety disorder](#). To help support her, the social worker arranges an independent [advocate](#) for Fatima.

Providing the advocate in this case can be a [reasonable adjustment](#) when providing the social care assessment process.

- Leroy has [agoraphobia](#). He has been told he has to go to a meeting about his benefit claim in the Job Centre. He explains he can't leave home because of his mental health problem and provides a doctor's report to confirm this. The benefit adviser agrees to meet Leroy at home.

Changing the meeting place is a reasonable adjustment to the normal practice.

Reasonable adjustments

- [What are reasonable adjustments?](#)
- [What kinds of reasonable adjustments can I ask for?](#)

What are reasonable adjustments?

[Reasonable adjustments](#) are changes that organisations and people providing services or public functions have to make for you if your disability puts you at a disadvantage compared with others who are not disabled.

They have an [anticipatory duty](#) to make these reasonable adjustments. This means they must plan in advance to meet the access needs of people with disabilities.

For example, when organisations are making plans about how to provide their services or public functions, they need to think about people with mental health problems and how it will affect them access their service or public function. If you may have difficulty accessing the service or public function, the organisation has an anticipatory duty to make reasonable adjustments.



Real life example

The Crown Prosecution Service is responsible for prosecuting cases investigated by police in England and Wales.

As part of its anticipatory duty, it has to consider what reasonable adjustments it should offer for people with mental health problems who are witnesses or victims of crime, who may find giving evidence in court particularly stressful.

It has a range of policies and procedures and practices to support witnesses and victims of crime who have mental health problems.

What kinds of reasonable adjustments can I ask for?

Any changes you ask for have to be reasonable, and you have to show that you are at a substantial disadvantage compared with other people because of your mental health problem.

If changes are reasonable for that organisation to make, then it must make them. Changes should make sure that you can use their services or public functions as closely as possible to the standard usually offered to people who do not have your mental health problem.

Examples of reasonable adjustments you could ask for include:

- changing the times when events happen
- changing the places where services are to be delivered
- arranging for an advocate to support you
- allowing more time for a face-to-face interview
- offering clear written information

Whether or not a change is reasonable will depend on:

- the type of service/public function the organisation provides
- the size of the organisation and what resources it has
- the effect that making the change would actually have on your difficulties



Example of reasonable adjustments

Sam has [depression](#). He has difficulty in motivating himself to get up in the morning and to leave his home and he does not find it easy to speak in large meetings.

Sam's care coordinator is planning a Care Programme Approach meeting for him to review his mental health care and discusses this with him.

So that Sam can participate, his care coordinator makes sure that:

- the meeting will take place in the afternoon
- there will be not more than three other people at the meeting
- Sam can bring an [advocate](#) with him

These are all examples of reasonable adjustments.

See pages 25 and 26 for draft letters asking for reasonable adjustments.

What can I do if a public authority has discriminated against me?

If you think that a [public authority](#) has discriminated against you when providing you services or public functions:

- you might be able to complain that they have not followed the [public sector equality duty](#)
- you might also be able to complain that they haven't followed their duties under the [Human Rights Act](#)

Public sector equality duty

Most public authorities have a special duty to consider eliminating discrimination, advance equality and foster good relations, called the [public sector equality duty](#).

If a service provider is a public authority, you may want to think about whether they have followed their public sector equality duty.



Example

A local authority plans to cut its mental health care support services. This decision has to follow the public sector equality duty. This means that the authority should:

- consult the people who use the service and their families
- consider the impact this decision will have on the service users and their families

If it fails to do this then it may not have followed its public sector equality duty and people may make complaints, or take them to court.

To find out more about the public sector equality duty, including how to make a complaint if you think an organisation is not following its duty, [see our information on disability discrimination](#).

Human rights and public authorities

Public authorities have to respect your human rights as well as follow the [Equality Act](#). This includes not discriminating against you, which is included in the [Human Rights Act](#). For more information, including how to make a complaint if your rights haven't been respected, [see our pages on the Human Rights Act](#).

How can I make a complaint about discrimination?

If you think you have been discriminated against by an organisation that provides a service or public function, there are a number of things you can do. What is best for you will depend on exactly what has happened, but generally it is best to try to sort it out informally if you can.

Raise the issue informally

Depending on the kind of problem, you should try to resolve the problem first informally by raising it with the service provider or the customer services or complaints department if there is one.

You could do this by phoning or talking to a member of staff or their manager, and it is a good idea to make a note of what is said. If you are worried about this then you can get advice and you may find it helpful to have an [advocate](#).

Formal complaints procedure

If raising the issue informally doesn't resolve the problem, you can use the formal complaints procedure for that organisation.

Remember to:

- date the letter
- keep a copy of the letter or email
- explain the discrimination you have experienced
- explain what you would like to happen next – for example an apology or change of practice or compensation for losses you experienced because of the discrimination
- keep the tone polite

We have some useful information about the [complaints procedures for health and social care](#).

If this does not work then you may want to get advice about making a legal claim for disability discrimination.

Make a legal claim

If you want to make a legal claim, you would usually do this in the [county court](#).

If you win your case, the court can order the other party to:

- pay you compensation for financial costs and any injury to your feelings (damages)

- make a public finding that there has been discrimination (a declaration)
- make them do something, for example [reasonable adjustments](#), and/or pay your costs

If you lose your case:

- the court can order you to pay the legal costs of the other party (unless you are in the small claims track). This can be very expensive. If you have legal aid, you can be protected against paying back the other side's costs, so it is important to [speak to a legal adviser](#) to check if you can get legal aid.

Time limits

There are time limits for making a claim:

- A claim must be started within **6 months less one day** of when the discrimination happened.
- The court may allow a claim after this time limit if it thinks it is fair to do so, but you need to show that there are good reasons for being late.

Court fees

There are court fees for bringing discrimination claims in the county court:

- There is a claim fee to start the case. How much you pay depends on whether you are claiming compensation and how much you want to claim.
- There is a hearing fee before a judge listens to your evidence and decides whether you have proved your case. How much you pay depends on which of the three tracks that the judge places your claim in: small claims, fast track or multi track.
- If you have a low income and limited savings, you may pay less fees or none. To apply for this you'll need to fill out an [EX160A form](#).

Get support

You might want to see if you can get some support:

- **See if you can get help paying your legal fees.** [See our information on disability discrimination](#) to find out more.
- **See if you can get extra support.** Taking legal action can be complicated and stressful. If you want assistance and support, you could ask a friend or an [advocate](#) to help you.

If you're thinking about going to court, you should get advice from a specialist legal adviser. See [Useful contacts](#) for more information on where you can get legal advice.

Useful contacts

Mind Legal Line

0300 466 6463 (Monday to Friday, 9.00 am to 5.00 pm)

legal@mind.org.uk

The Mind Legal Line can provide you with legal information and general advice.

Citizens Advice Bureau

03444 77 20 20 (Wales)

03444 111 444 (England)

TextRelay users should call 03444 111 445

citizensadvice.org.uk

Provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities.

Civil Legal Advice (CLA)

0845 345 4345

gov.uk/civil-legal-advice

The Civil Legal Advice can tell you if you're eligible for legal aid and can give you free and confidential legal advice in England and Wales.

The Equality and Advisory Support Service (EASS)

Tel: 0800 444 205

Text: 0899 444 206

Skype video BSL calls can access the helpline at radlegalservices.org.uk.

Monday to Friday 9am-8pm

Saturday 10am-2pm

equalityadvisoryservice.com

The helpline can advise and assist you on issues relating to equality and human rights, across England, Scotland and Wales.

Equality and Human Rights Commission (EHRC)

equalityhumanrights.com

The EHRC is responsible for monitoring and protecting human rights in Britain. It has useful advice and information about legal rights and discrimination on its website.

The website also has copies of the Equality Act 2010 Statutory Code of Practice for services and the Equality Act 2010 Statutory Code of Practice for Employment which give helpful guidance on how to apply the Equality Act.

Law Centres Network

lawcentres.org.uk

Law Centres offer legal advice, casework and representation to individuals and groups. To find your local Law Centre, you can look at their [interactive Google map](#) or see the [Law Centres list](#).

For legal advice enquiries, visit the [I am looking for advice](#) page on their website.

The Law Society

020 7242 1222 (England)

029 2064 5254 (Wales)

lawsociety.org.uk

The Law Society provides details of solicitors in your area that you can contact for specialist legal advice.

LawWorks

lawworks.org.uk

LawWorks is a legal charity that lists on its website the Free Legal Advice Clinics in England and Wales. These clinics can give you one-off, face-to-face advice if you have legal problems about consumer disputes, housing, social welfare law or employment.

Office for Disability Issues

gov.uk/government/organisations/office-for-disability-issues

This is part of the Department of Work and Pensions and supports the development of policies to remove inequality between disabled people and non-disabled people. It has produced useful guidance on how you work out whether you have a disability.

Where can I get support?

Local Mind

Local Minds support over 280,000 people across England and Wales. Their services include supported housing, crisis helplines, drop-in centres, employment and training schemes, counselling and befriending. They may be able to help you find advocacy services in your area.

Find your local Mind [here](#).

Find an advocate

An advocate is a person who can both listen to you and speak for you in times of need. Having an advocate can be helpful in situations where you are finding it difficult to make your views known, or to make people listen to them and take them into account.

For information on advocacy services and groups in your area, you could start by contacting the [Mind Legal Line](#) and your [local Mind](#).

Read more about how [advocacy](#) might help you.

Draft letter asking for reasonable adjustments from a GP surgery

[Your address]

To the Practice Manager

[Your National Health Service number, if you know it]

Dear Sir or Madam

Request for reasonable adjustments

I am writing to ask you to make a reasonable adjustment for me under the Equality Act 2010 because of my mental health problems which make it very difficult for me to access your surgery for appointments with the nurse and my doctor.

[Describe your mental health problem and how this is making it more difficult for you at the moment]

As my GP will confirm, I have experienced long term problems with anxiety and have been diagnosed with borderline personality disorder. Because of my agitation I find that I am unable to remember the advice I was given at a consultation

[Explain what changes you want]

Because of this I would be grateful if the nurse and the GP and receptionists at the practice could make the following reasonable adjustment for me:

- The GP and the nurse to write down any key advice in a handwritten note at the time I am in the surgery so that I have an aide memoire of what has been said when I leave.

[Explain what the law is]

I am advised that the Equality Act applies to GP surgeries as they provide services. Under the Equality Act, you have a duty to make reasonable adjustments (changes) for people who have disabilities when their disability makes it difficult for them to access your services compared with someone who does not have that disability.

I hope you can confirm that you can agree to make these changes so that I can use your services.

Thank you.

Regards

[Your full name]

Draft letter asking for reasonable adjustments from the Department of Work and Pensions

[Your address]

[Put your National Insurance number and any other reference from letters you have received]

Dear Sir or Madam

Request for a reasonable adjustment

I am writing to ask you to make a reasonable adjustment for me under the Equality Act 2010 because of my mental health problems which make it very difficult for me to get the Job Centre for interviews.

[Explain the mental health problem you have and why it means you are having difficulties. Include proof if you can, as you can be asked to provide evidence.]

I have experienced long-term depression and find it difficult to get up in the mornings. The medication I take makes me feel quite unwell in the early morning. I also have problems with remembering dates and times. I find it difficult to open letters. I attach a copy of a letter from my GP, which confirms this.

[Explain what changes you want]

Because of this, I am not be able to get to any appointments if they are fixed before 11 am. So I would be grateful if you could fix my appointments after 11 am. Please could you also email me the date and time of the appointment to my email address which is [your email address] to ensure that I get the information.

[Explain what the law is]

I am advised that the Equality Act applies to Job Centres as they provide services and public functions. Under the Equality Act you have a duty to make reasonable adjustments (changes) for people who have disabilities when their disability makes it difficult for them to access your services compared with someone who does not have that disability.

I hope you can confirm by return that you can agree to make these changes so that I can use your services.

Thank you.

Regards

[Your full name]

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