



Leaflet 7

When things don't work out well



Discrimination - direct vs indirect:

Direct discrimination (section 13 **Equality Act** [2010]¹) is when you are treated worse than another person or other people because:

- you have a protected characteristic
- someone thinks you have that “protected characteristic” (known as *discrimination by perception*)
- you are connected to someone with that “protected characteristic” (known as *discrimination by association*).

Your circumstances must be similar enough to the circumstances of the person being treated better for a valid comparison to be made.

Indirect discrimination (section 19, **Equality Act** [2010]²) happens when there is a policy that applies in the same way for everybody but disadvantages a group of people who share a protected characteristic, and you are disadvantaged as part of this group. If this happens, the person or organisation applying the policy must show that there is a good reason for it.

It makes no difference whether anyone *intended* the policy to disadvantage you or not.

The **Equality and Human Rights Commission** is the body responsible for implementing the Equality Act 2010 and which provides much useful advice in this area³. It organises information on its homepage for individuals, organisations and the public sector in general.

Useful organisations:

- **START Ability Services:** This organisation was established to provide efficient, expert solutions to businesses and individuals. Its consultants are experts in disability equality issues and psychological interventions.
- **The Association of Disabled Professionals (ADP):** Set up for disabled people who wanted to enter or remain working in the professions and provides a forum for disabled people to share both their problems and experiences.
- **Access to Work:** A government scheme that offers people who are disabled or have a physical or mental health condition practical support based on needs, which may include a grant to help pay for special equipment, adaptations or support worker services or help getting to and from work.

Dealing with unpleasant behaviour:

Unpleasant behaviour may be experienced in different contexts, and how you deal with it depends on the specifics of the situation, personal circumstances and the outcome you wish to achieve.

¹ <https://www.legislation.gov.uk/ukpga/2010/15/section/13/2010-10-01>

² <http://www.legislation.gov.uk/ukpga/2010/15/section/19>

³ <https://www.equalityhumanrights.com/en>

Challenging organisations or individuals on their “wrong doing” can leave you feeling even more isolated and vulnerable. Those experiences can easily destabilise an existing physical condition or mental condition.

Section 27 **Equality Act** [2010]⁴ legislates on **victimisation**. This makes it unlawful to subject an employee to detriment because they have raised (or are threatening to raise) a complaint about discrimination.

Overview of approaches: what steps to take:

It is of upmost importance that you take care of yourself through such difficult situations for your own sake and your patients’ sake. Get the emotional support you need, be it via friends and family, your GP, close colleagues or confidential helplines.

- Step 1: Identify the unpleasant behaviour: discrimination, bullying, harassment, or victimisation.
- Step 2: Document the evidence, and assess the situation:

If you feel harassed or bullied by a colleague, keep a record or diary of any incidences including how these have made you feel and how it has affected you

- Step 3: Decide on an appropriate course of action:

There are organisations which can advise and help you with this process.

Before a case will be heard at an employment tribunal, there is a requirement to first go through a reconciliation process via the Advisory, Conciliation and Arbitration Service (ACAS). ACAS provides excellent advice on this. You may not need legal representation to go through their process.

This leaflet is a summary of our more extensive Factsheet 5. For more in-depth information on the following topics, please refer to this document which can be found on the NHS Practitioner Health and the Disabled Doctors Network websites

-  Discrimination: direct vs indirect
-  Useful organisations
-  Dealing with unpleasant behaviour
-  Harassment and bullying
-  Overview of approaches: what steps to take
-  Key guidance documents
-  Places to go for further support

www.practitionerhealth.nhs.uk

www.disableddoctorsnetwork.com

⁴ <http://www.legislation.gov.uk/ukpga/2010/15/section/27>