

Disclosure And Discrimination In The Workplace

A Guide For People With
Long-Term Health Conditions

Introduction

As a disabled person or somebody with a long-term health condition, you may encounter discrimination in your working life. From being excluded during recruitment to difficulties securing reasonable workplace adjustments and climbing the career ladder, people can face multiple barriers during their working day. This is unacceptable, and for a long time, disability has seemed like the forgotten strand of businesses' organisational commitments to diversity and inclusion. Thankfully, we're now beginning to see an evolution in workplace practice around disability and long-term conditions, and attitudes are starting to change.

We must continue working towards cultures and environments where disabled people are no longer disadvantaged, and where the burden of advocating for change does not fall solely on individuals. However, for disabled people working at present, we cannot simply put our lives and careers on hold until the situation is better. This means that, unfortunately, you may have to tackle discrimination during your working life.

All disabled people face social barriers, but through our line of work at Astriid, we aim to support and empower people with long-term health conditions and energy limiting conditions in particular. We know from our own lived experiences that it can be especially difficult to communicate your reality when living with disabilities of this nature, and even more so to tackle discrimination while taking care of yourself and managing your symptoms.

That's why we've created this resource, based on the questions we're most frequently asked by the community we support. This document is not intended to be a comprehensive guide, or a substitute for legal guidance or targeted support from HR professionals. Instead, it aims to act as a starting point for any individual experiencing disability discrimination in their line of work. We hope the information included in this guide gives you a better understanding of your rights, and equips you with the tools you need to tackle workplace disability discrimination alongside managing your condition.

Your Rights As A Disabled Employee

Not everybody with a long-term health condition identifies as disabled in their day-to-day life. However, in the world of work, identifying as having a long-term health condition does not necessarily attract the same legal protections as identifying as disabled. Therefore, it may be worthwhile to refer to your condition as a disability in your place of work, especially if you find yourself tackling discrimination.

Here are some of your rights that are helpful to be aware of:

- In line with the **2010 Equality Act**, it is against the law for employers to discriminate against you because of a disability.
- **Long-term health conditions, energy limiting conditions, and specific diagnoses are not mentioned by name in the 2010 Equality Act.** However, if your long-term health condition meets the definition of disability under this Act, namely 'if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities', then you can identify as disabled in this context.
- **Getting a diagnosis for your health condition can be a time-consuming process, and you may not have a firm diagnosis when you experience discrimination.** You must have the protected characteristic of disability if you are raising a case of disability discrimination, but there may sometimes be legal protection if you are currently undiagnosed but perceived as having a disability. An example of this would be if you don't yet have a confirmed diagnosis, but you find it difficult or impossible to perform certain tasks in the workplace due to your symptoms.
- **You are never obliged to disclose information about your health condition**, including during recruitment. However, an employer 'may make limited enquiries about your health or disability.' Lawful questions from a prospective employer may be asked so they can find out if you will be able to do the intrinsic functions of the job you are applying for, what kind of reasonable adjustments you require, or to monitor their organisation's diversity and inclusion by recording the characteristics of people applying for specific types of work. If you are asked a question you may not want to answer, you can ask the interviewer why they are asking that question and how it relates to the role, and choose what (if any) information you're comfortable divulging based on their reply.

- **If you are a disabled candidate, employee, or former employee, an employer must provide 'reasonable adjustments*'**. This can include providing additional support, equipment and allowances for your condition management, to help remove substantial disadvantage in the workplace. If you cannot start or return to your job until adjustments have been implemented by your employer, this should be recorded as the reason for your absence and you should receive the correct contractual pay. If your absence has been recorded incorrectly or incorrect payments have been made due to a lack of reasonable adjustments, it may mean you have been discriminated against.
- **Your employer cannot overlook you for a promotion or select you for redundancy simply because of your disability.** This holds true even if you only became disabled or acquired your condition after starting in your role. If this is something you are experiencing, we will cover the process for challenging this in the coming pages.

* At Astriid, we refer to reasonable adjustments as workplace adjustments, to counteract the idea that a non-disabled person has the power to decide what is or isn't reasonable for a disabled person. However, 'reasonable adjustments' is the legal term used by default by many organisations.

Explaining Fluctuating and Non-Visible Disabilities

If you are living with a stigmatised illness or less-visible symptoms, as is often the case with long-term health conditions, you may face particular challenges when you try to explain your reality and advocate for yourself. We have included the following definitions to help you communicate your lived experiences in a succinct and energy-friendly way:

Non-Visible/Less-Visible Disabilities

Not every disability is visible. Many people with long-term conditions live with non-visible or less-visible disabilities, meaning that they may not fit another person's stereotypical image or ideas of what a disabled person 'should' look like. People with non-visible or less-visible disabilities are often managing symptoms and challenges that are not immediately obvious to others, and often have to self-advocate to access the adjustments they require.

Example phrase: "I have a non-visible disability. You might not see the symptoms I'm experiencing, but I'll need [x] as an adjustment to help me accommodate them while doing my job".

Chronic Illness

A chronic illness is a health condition or disease that is persistent or otherwise long-lasting in its effects. The term 'chronic' is often applied when the course of the disease lasts for more than three months, and many people live with chronic illnesses for years or decades.

Example phrase: "I have a chronic illness. My prognosis is unknown and things can change over time, but at the moment, here are the ways it impacts me while I'm working".

Energy Limiting Condition

An energy limiting condition (ELC) limits the overall amount and pace of an activity a person can do. These conditions typically affect many different functions in the body, rather than being localised to a specific organ or limb. People with ELCs have shared experiences of fatigue and energy impairment (defined below), chronic pain, cognitive dysfunction, and experiencing 'payback' (a worsening of symptoms) if they over-exert themselves.

Example phrase: "My disability is an energy limiting condition. These conditions aren't always well-understood and sometimes come with stigma, but here are the things you should know..."

Energy Impairment

Energy impairment can be used as an alternative term for 'fatigue'. Fatigue is a word that's often used by non-disabled people to describe their tiredness or lethargy in everyday life, but this feeling is categorically different to the fatigue experienced by people with particular health conditions. The term energy impairment is therefore used to convey this difference, to describe an objective loss of function or impairment, rather than a subjective state of tiredness.

Example phrase: "The symptom that affects me the most in work is energy impairment. My body doesn't produce and manage energy in the same way a non-disabled person's does, which means I must do [x] to create working patterns that help me to pace myself".

Dynamic Disability

A dynamic disability refers to a condition or impairment that varies in severity and impact over time. Somebody with a dynamic disability may be able to perform certain tasks or duties on one day, but not necessarily on another. Having a dynamic disability often requires people to have flexibility over their schedule or commitments, so they can tailor these around their condition management or how their health is on a particular day. People with dynamic disabilities may be more, or less, visibly disabled on some days than others.

Example phrase: "I have a dynamic disability. It helps if I'm able to adapt my schedule and working tasks to accommodate the symptoms I'm experiencing on a given day".

Ambulatory Wheelchair User

There are many people who use mobility aids to manage their condition. They may use these mobility aids in certain situations but not others. For example, somebody with an energy-limiting condition may be able to stand and walk for short periods of time, but they may require a wheelchair for longer distances. An ambulatory wheelchair user is somebody who uses a wheelchair, but there are still certain situations where they may walk and stand independently. This means they use their wheelchair some of the time, but not necessarily all of the time.

Example phrase: "I'm an ambulatory wheelchair user. If I'm just coming into the office for a meeting you might see me standing and walking, but if I'm here all day, I'll probably be using my wheelchair or /mobility scooters".

How To Disclose A Disability/ Long-Term Condition In The Workplace

Disclosing a disability (if you choose to) is often the first step in accessing support and adjustments in the workplace. However, disclosure can be physically and mentally draining for some people. This may be due to experiences of medical trauma and gaslighting, negative past experiences of disability disclosure, and more.

We asked our **Astriid candidates** what advice they would give to others about disclosing their condition or access needs in these situations, especially if they have found doing so to be difficult in the past. The following tips have been crowdsourced from the advice they chose to share...

- **Consider what information is required for different stages of the recruitment process.** If you are currently completing job applications and taking part in job interviews, you may choose to disclose certain access needs as they arise. This avoids the exertion of attempting to disclose everything at the earliest opportunity, all at once. You are within your rights to disclose in stages, but if you do require adjustments throughout recruitment, make sure you request these with plenty of notice to ensure your needs are met. For example, if you receive an invitation to interview, you can get in touch with the recruiter to request an accessible location or a remote conversation. If you successfully reach the next stage of recruitment and must complete an assessment task, you can then contact them again before the assessment day to request rest breaks during the task.
- **Introduce your symptoms or lived experiences slowly, at a pace you feel comfortable with.** If you live with a condition which sadly still carries stigma or misinformation, you may feel reluctant to disclose your specific diagnosis. One way around this, especially when communicating with colleagues, is to introduce different elements of your condition (for example 'I have chronic pain' or 'I struggle with insomnia') one by one, so that you control the pace of disclosure and can gauge their reaction. Introducing information in this way can enable others to better understand your reality without relying on any of their existing assumptions about your diagnosis.

- **Create a document or template of the adjustments you require.** This allows you to share key information about your condition (if you choose to), and note down all your access requirements to ensure you aren't forgetting any. By keeping this document safe and up-to-date, you can easily send it to any new line managers you encounter and ensure your adjustments are being actioned. The gov.uk website provides [a Health Adjustment Passport template](#) for this purpose, or you can create your own..
- **Use a third-party contact to reinforce your requirements.** If you are new to disability or lack confidence in this area, you may find it easier to back up the adjustments you are asking for by citing advice from a healthcare provider, or a professional involved in your condition management. For example, if you have received support from an Occupational Therapist, you can say 'my OT strongly recommends that I have [x] arranged in the workplace' or 'my GP states I must do [y] in this way to suit my condition management'.

Types of Disability Discrimination

Discrimination can come in many different forms. Comprehensive information about different types of disability discrimination is provided in [Business Disability Forum's Disability Essentials](#) range, but can be summarised as follows...

- **Direct discrimination** occurs when somebody with a protected characteristic (e.g. disability) or connected to somebody with that protected characteristic is treated less favourably than others because of their disability or their perceived disability (even if they are not actually disabled), or even for associating with a disabled person such as a relative they are caring for. This can arise when a non-disabled person makes inaccurate assumptions about somebody's lived experience.
- **Indirect discrimination** occurs when an unjustifiable organisation-wide policy or practice disadvantages people with a protected characteristic (e.g. disability). Everybody within that organisation's workforce may be expected to follow that policy, but if this policy is inaccessible, disabled people are placed at a disadvantage.
- **Harassment** occurs when somebody in the workplace creates an environment that is intimidating, hostile, degrading, humiliating, or offensive to an individual with a protected characteristic (e.g. disability). The perpetrator may be a line manager or a fellow colleagues.
- **Victimisation** occurs when a person with or without a protected characteristic (e.g. a disabled person or a non-disabled ally) is treated unfairly if they raise or challenge discrimination in the workplace. Unfair treatment, such as dismissal or marginalisation, can occur for not only the person who raised the discrimination complaint but others who supported them

- **Failure to make reasonable adjustments** occurs when an employer who knows about a person's disability or, reasonably should know about it, fails to take steps to remove substantial disadvantages in a disabled person's workplace. This not only relates to things in the direct environment, such as improving step-free access, but also adaptive equipment and tools to aid condition management while a disabled person is doing their job. Relevant adjustments should be made in a timely and efficient way, at no cost or disadvantage to the disabled person they are required by.
- **Discrimination 'arising from' disability** may occur if you're treated badly because of something that happens as a result of your disability. According to Citizens Advice, this is different from direct disability discrimination, which is about being treated worse than someone else just because you're disabled. Examples of discrimination arising from disability include an employer making negative assumptions about a person's work ethic if they require regular rest breaks, or somebody being turned down for a promotion or accolade because they've had to take time off during the working day to attend medical appointments.

Each of the above categories is a type of discrimination. Therefore, none of these behaviours are acceptable in the workplace, and you have the right to challenge them.

How To Tackle Disability Discrimination

As we discussed earlier, there are many different types of discrimination. If you feel you have been discriminated against in your place of work, you may be wondering how to take action. The process varies between different sectors and organisations, but the following steps provide an overview of what you can do and what to expect when reporting a case of disability discrimination.

- **If you experience disability discrimination in any form**, it's important to keep an accurate record of this. If you can, write down the date, time, and location of the incident, and describe in detail what has happened. It's best to do this as early as possible while the information is fresh in your mind, especially if you experience brain fog or cognitive impairment, but there is no set time period or deadline for reporting a case of disability discrimination. You can report it in real-time just after it has happened, or you can report an incident that took place in the past. However, a delay might limit your options if you proceed with making a legal claim. If the discrimination has occurred digitally, ensure you have copies of any relevant messages or emails saved securely on your computer.
- **Every organisation should have a set policy and procedure for dealing with disability discrimination** and raising a grievance, and all employees should be made aware of this. You may be able to find details of this process in any onboarding documents or training issued to you when you started your role, or in your organisation's handbook or online portal. If you don't know where to find this information, contact the person who trained or on-boarded you when you began working at the organisation.
- **There may be cases where raising the issue informally is the best starting point**, rather than diving straight into formal action. Contact your line manager or the HR professional associated with your team, and explain what has happened and how it made you feel. You could request a meeting or phone call to do this, or communicate digitally instead – whichever method best suits your access needs and enables you to get your point across. People in these leadership roles should have received guidance and training on how to handle different situations, and may be able to work with you to resolve the issue without taking it any further. [There is information about making an informal complaint on the ACAS website.](#) If you are a member of a trade union, it may be worthwhile to contact them for support and guidance at this stage.

- **If the matter cannot be resolved informally** or you or your line manager feel it is too serious for this method, you can raise a formal complaint with your employer. You are entitled to raise a formal complaint if you choose to do so, with or without agreement from your line manager. From there, you may be asked to make a statement describing the issue you have experienced. Your employer will use this to carefully consider the most appropriate way to respond and what will happen next. This process will be different in each organisation, but [ACAS details what action your employer may take next.](#)
- **If the issue you are experiencing is not resolved** or you're not happy with the outcome of the formal complaint process, you can make a claim to an employment tribunal. You can make a discrimination claim of this kind regardless of your employment status or how long you've worked for your employer, but in most cases, you must make a claim within 3 months of the date the discrimination took place. [You must first notify ACAS to begin the process,](#) and you will initially be offered (free) early conciliation between you and your employer. You do not have to pay any fee to make a claim to an employment tribunal, but it's important to consider your options carefully – the tribunal process can be difficult and time-consuming, especially for people managing limited energy to start with. [Further information about making an employment tribunal claim is available on the ACAS website.](#)

Taking Care Of Yourself During Difficult Times

Balancing working life alongside managing your long-term health condition can be tough, even under the best circumstances, and people negotiating this careful balancing act often do not receive the credit or recognition they deserve. Add disability discrimination into the mix, and you may find yourself feeling frustrated, dejected, and overwhelmed.

Whether or not you choose to report the discrimination you are experiencing, here are some important reminders:

- **You are the expert in your own lived experiences.** You know your access needs better than anybody, and nobody's else's perceptions of your situation overrule your own.
- **You should feel safe and valued in your place of work,** and you deserve the same opportunities to shine as any non-disabled person working alongside you.
- **It's just as important to take care of your mental health needs as well as your physical health needs,** especially when you're going through a tough time. Speak to friends or loved ones about your emotions, reach out for support (more details in the next section), and ensure you factor adequate physical and emotional rest into your day.
- **Issues at work can feel all consuming,** especially for people with energy limiting conditions who often have to make sacrifices in their broader lives in order to work at all. It's vital that you maintain time for escapism or 'switching off', so try to keep some of your energy allowance sacred and reserved for doing things you enjoy, no matter what this looks like to you.
- **If you no longer feel comfortable or safe in your work environment** and the issues you raise fail to be resolved to the standard you expect, you may find yourself wanting to leave or hand in your notice. It's important not to make this decision prematurely, but choosing to take a step back or walking away from a toxic situation does not make you weak or a failure.

- **The world of work is constantly changing and evolving.** Although it may not feel like it day-to-day, businesses and employers are constantly enhancing their understanding of disability inclusion. With the support of Astriid, we hope that individuals who are working while managing long-term health conditions will feel much better supported by their workplace over coming years than they have in the past, and there will be much less need for guides like this one to be created in the future.
- [There are so many transferrable skills that come from managing a long-term health condition,](#) even if you don't feel able to recognise them right now. **You are not a burden – in the right environment, you will be an asset to your team and a valued member of the workforce.**

Where To Find Additional Support

Dealing with disability discrimination can feel overwhelming and exhausting. If you are raising a case on your own behalf, there are people and resources that may be able to help.

Information On Your Rights

- **ACAS**– the law on disability discrimination
- **Scope** – disability discrimination at work
- **Citizens Advice** – what counts as disability discrimination

Practical Support and Advocacy Services

- **WorkRight by Disability Law Service** – automated legal advice on your entitlement to reasonable adjustments
- **LawWorks** – matching volunteer lawyers with people in need of legal advice who cannot afford to pay for it
- **Equality Advisory Service (EASS)** – advice and assistance on issues relating to equality and human rights (including disability) across England, Scotland and Wales

Helplines For Support And Guidance

- **ACAS** – free and confidential advice for employees and workers
- **Citizens Advice** – practical advice spanning all areas of work via phone, online chat, or face-to-face
- **Scope** – impartial support and advice on issues that matter to disabled people, via phone or within their online community

Nobody should have to experience disability discrimination in their line of work. We are striving to level the playing field for people with long-term health conditions, but in the meantime, we hope this document provides a helpful starting point for anybody who needs it at this time. Take good care of yourself, and always remember your worth – you are an asset to your organisation, and you deserve to be treated equitably.

Many thanks to Employment Law specialist Joan Pettingill from professional services firm gunnercooke for her expert advice on the contents of this guide.

For more information about Astriid, [visit our website](#). You can also [find more information and resources for individuals seeking work here!](#)