



Getting to Zero Discrimination

It is your right not to be discriminated against because of your HIV status.

Rights under the DDA

In 2006 the Disability Discrimination Act was amended to extend the definition of disability to cover people living with HIV from the point of diagnosis. This means you are protected by the provisions of the Disability Discrimination Act which makes it unlawful to discriminate in the context of employment as well as the provision of goods, facilities and services, education, and transport. You do not need to think of yourself as disabled or call yourself disabled to benefit from these legal protections.

Employment and Reasonable Adjustments

The law protects you from any discrimination at work relating to your HIV positive status. This means when you are applying for a job, in relation to your terms and conditions of employment, your access to promotion transfer or training opportunities, or in relation to dismissal or selection for redundancy.

It also and requires employers to make 'reasonable adjustments' – changes to the workplace or workplace practices which remove any disadvantage or barriers that you may face because of your illness.

Examples of reasonable adjustments which could help you at work include:

- Sufficient / flexible breaks
- Access to a quiet area for breaks or to take medication
- Access to a canteen, kitchen or facilities for appropriate food at times required by combination therapy
- Time off for doctor / hospital appointments
- Flexible working hours
- Reduced working hours
- Flexibility regarding your output in the workplace. The side effects of starting or changing medication can be more acute in the early stages as you get used to your treatment and this may affect your productivity for a short period while your body adjusts.

Your employer will have to meet your request unless it can be shown to be unreasonable. What would be considered unreasonable will depend on the type and size of employer you work for, your role and the nature of your request.



If you make a request for a reasonable adjustment and your employer does nothing, you could bring a claim against them in an Industrial Tribunal. See below for more information about legal redress

Harassment

Your employer must protect you from harassment at work. This is unwanted behaviour related to your HIV status which violates your dignity or creates an intimidating, hostile, degrading, humiliating or offensive working environment. Unwanted behaviour can, for example, include written or spoken abuse, graffiti, physical gestures, jokes and pranks, or actions which isolate you from the rest of your colleagues.

Your employer is responsible for protecting you from this sort of behaviour even if it is not a colleague but a customer who is doing the harassing. It is important to note that this protection extends beyond workplace premises, so if you face abuse from a colleague at a work party or social event in a venue outside the office your employer should still protect you from this behaviour.

If you experience harassment related to your HIV status, speak to your line manager or Human Resources manager who should take steps to resolve the situation. Your employer can be held responsible for such harassment if they do not act appropriately to stop the behaviour.

Disclosure of HIV Status and Confidentiality at work

If you wish to access reasonable adjustments you will have to disclose your HIV status to your employer. The Data Protection Act regulates how personal information is processed and protects all personal sensitive data disclosed by a job applicant or employee.

Every responsible employer should have procedures in place to ensure that personal information about employees is handled properly.

Some employers may ask you to fill in a medical questionnaire as part of their recruitment process. Failure to disclose honestly could be considered by an employer as grounds for disciplinary action and possibly result in termination of employment. If you are asked questions you think are inappropriate seek advice from the Equality Commission or the HIV Support Centre.

If a job offer is withdrawn purely because of your HIV status and this is not a relevant factor in your ability to do the job, you may make a complaint or bring a case under the DDA.

Some employers may have policies that require successful job applicants to undertake a medical examination. Such policies should not discriminate against disabled people. Any medical assessment has to be appropriate and relevant to the role. If medical examinations are 'universal' (a requirement for all staff), it is not discriminatory practice to



expect you to have one. However, any discriminatory behaviour arising after a medical assessment (such as withdrawing a job offer) would contravene the DDA.

Your rights when accessing goods, facilities and services

The DDA makes it unlawful for those providing goods, facilities or services to the public to discriminate against an individual living with HIV for a reason related to their HIV status.

For example:

- A beauty salon refuses to provide a waxing treatment for a customer who is HIV positive because they mistakenly believe that they are at risk of contracting the HIV virus.
- A hospital gives a patient with HIV plastic cutlery to use instead of standard cutlery
- A dentist will only see a customer with HIV during the last appointment of the day.
- A shop which does tattoos and piercings refuses to provide a service to a customer who is HIV positive.

All of the above are potentially discriminatory actions and could be challenged under Disability Discrimination legislation.

What to do if you experience discrimination

Knowing your rights may help you to sort out a problem before it goes too far. In the first instance you should raise the issue with a view to resolving the problem informally. But if you cannot do this, you may be able to use the law to bring an end to the discrimination and get some redress for the discriminatory treatment you have suffered.

If you need information about your rights or you think you have been discriminated against, you can contact the Equality Commission for **free confidential advice and assistance**. If you would like to speak to a Discrimination Advice Officer, they can be contacted by phone, textphone, fax, email, or at our offices **by appointment**:

Enquiry Line: 028 90 890 890

Textphone: 028 90 500 589

Fax: 028 90 331 047

Email: information@equalityni.org

Address: Equality Commission for
Northern Ireland

Equality House

7 - 9 Shaftesbury Square

Belfast

BT2 7DP

However, the Commission does not rule on whether or not discrimination has occurred. Cases of employment discrimination are heard in an industrial tribunal while cases regarding service provision are dealt with by the county court.



Time limits

If you think you have been discriminated against you should act quickly, as there are strict time limits for lodging a claim with a tribunal or issuing court proceedings.

The time limit for bringing a claim before the tribunal is generally **three months** from the date of the act you are complaining about.

In non employment related complaints, you normally have six months from the date of the incident you wish to complain of to issue county court proceedings

Further Information

For more information about your rights under anti-discrimination law generally, see the 'Your Rights' section of our website. <http://www.equalityni.org/sections/default.asp?secid=2>