



Advocacy Toolkit:

Discrimination and Cancer – The Equality Act

What is discrimination?

Discrimination means treating a person less favourably, because of who they are or because of a particular characteristic.

This can include:

- Direct discrimination – where someone is treated unfairly in comparison with another (e.g. preventing somebody from accessing a treatment because of their age. Instead the NHS must look at each case individually to decide the most appropriate treatment option)
- Indirect discrimination – where a rule applies to everybody, but places a group at a disadvantage and where the rule cannot be shown to be justified as being a proportionate means of achieving a legitimate aim. (e.g. if an employer used the amount of sick leave taken as criteria for selection of redundancy, this rule would adversely affect people with cancer. It would constitute indirect discrimination unless the employer could show that it was legally justified.)

What is protected?

The Equality Act (section 4) sets out nine protected characteristics:

1. Age
2. Disability
3. Gender Reassignment
4. Marriage and Civil Partnership
5. Pregnancy and Maternity
6. Race
7. Religion or Belief
8. Sex
9. Sexual Orientation

Everyone with cancer automatically qualifies as disabled under the Equality Act. This means it is unlawful to treat a person less favourably because of their cancer.

People are included from the point of diagnosis. Even a person who has been successfully treated and is now in remission is still protected, so they cannot be treated less favourably in relation to their past cancer.



How am I protected?

The Equality Act 2010 applies to all service providers and those providing goods and facilities in Great Britain.

This includes (but is not limited to):

- businesses and organisations which provide goods or services (e.g. shops)
- employers
- health and care providers (e.g. hospitals and care homes)
- public bodies (e.g. the NHS, government departments and local authorities)

As well as a duty not to directly discriminate against you, there is also a duty for service providers to make 'reasonable adjustments' for those affected by disability (such as cancer) to ensure that protected individuals are not disadvantaged.

What about public bodies?

The Equality Act also introduced the public sector equality duty. This means that public authorities (such as the NHS) have a duty to consider how their policies or decisions affect those with protected characteristics.

This means that, in addition to their duty not to discriminate against you, the NHS has a duty to eliminate discrimination, advance equality of opportunity and foster good relations between those who have a protected characteristic and those who don't.

For more guidance on this duty visit:

<https://www.citizensadvice.org.uk/law-and-courts/discrimination/public-sector-equality-duty/>

Where does it apply?

The Equality Act applies in England, Scotland and Wales.

Separate legislation applies in Northern Ireland, so its provisions may vary from those of the Equality Act. For more information visit:

<https://www.nidirect.gov.uk/articles/disabled-peoples-rights-everyday-life>

I think I have been discriminated against

If you think you have experienced discrimination within the NHS, you may wish to read our guide on making a complaint:

<http://www.leukaemiacare.org.uk/resources/NHS-complaints-procedure>



Where to find out more?

For more information, visit:

Government Equalities Office, a disability quick start guide:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85011/disability.pdf

Citizen's Advice Bureau

<https://www.citizensadvice.org.uk/law-and-courts/discrimination/about-discrimination/equality-act-2010-discrimination-and-your-rights/>

Macmillan, who offer guidance about discrimination in the workplace

<http://www.macmillan.org.uk/information-and-support/organising/work-and-cancer/if-youre-an-employer/legislation-about-work-and-cancer.html#160727>

The Law Society

<http://www.lawsociety.org.uk/support-services/advice/practice-notes/equality-act-2010/>

NHS Guidance

<http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/Equality-Act-disability-discrimination.aspx>

A copy of the Equality Act 2010 is available at:

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

Further Questions

If you have any further questions, want to find out more about discrimination or need support if something has gone wrong then contact our Campaigns and Advocacy team.

They are available Monday to Friday from 9:00am – 5:30pm. If you would like to speak to them, you can:

- Call our office line on 01905 755977
- Send them an email at advocacy@leukaemiacare.org.uk

You can also call the 24-hour CARE Line, free of charge on 08088 010 444. The team will pass your enquiry onto the Campaigns and Advocacy team.

Please note that our Campaigns and Advocacy team are unable to provide:

- Detailed medical advice or recommendations
- Legal advice
- Advocacy for a course of action which is contrary to the aims and objectives of Leukaemia CARE