

FAQs for Unfair Treatment at Work

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Since coming out at work, I have been treated poorly and dismissed from employment without a reason. What can I do?

It may be discrimination if you think you have been dismissed because of your sexual orientation (which is one of the 'protected characteristics').

If you believe your dismissal was unfair and/or connected to your sexual orientation, you can make a complaint to your employer by lodging an appeal to your dismissal – ordinarily you have 5 days from the date of being dismissed to provide a written appeal to your employer. However, you will need to consult with your employer to understand the timeframes applicable to your employment.

In addition to the internal employer processes, you could consider whether you would like to commence legal proceedings against your employer at an Employment Tribunal. There are applicable timeframes for bringing an employment tribunal claim (ordinarily this is three months minus one day from the date of dismissal or act of alleged discrimination) and therefore you should contact ACAS without delay if you wish to bring a claim.

Please note that it is a legal requirement to notify ACAS of your intention to bring an employment claim and a failure to do this will result in your claim being rejected.

I was offered a job but since providing details of my sexual orientation/gender identity, the offer has been removed. What can I do?

It may be discrimination if you think you have not been offered a role because of your sexual orientation (which is one of the 'protected characteristics').

However, as a first step, you could request feedback from the company and ask that they provide you with details and/or an explanation of why you were not offered the role. If you are still not satisfied with this response and believe the reason for you not being offered the role was your sexual orientation, you could make a complaint direct to the company or consider bringing an Employment Tribunal claim. Please note that to bring an Employment Tribunal claim you will need to contact ACAS first.

As a queer woman, I am being denied leave after my wife has given birth to our child. What can I do?

To be eligible for paternity leave, you must be taking time off to look after the child and be one of the following:

- the father
- the husband or partner of the mother (or adopter) - this includes same-sex partners
- the child's adopter
- the intended parent (if you're having a baby through a surrogacy arrangement)

In addition to the above you must

- be an employee

- give the correct notice
- have been continuously employed by your employer for at least 26 weeks up to any day in the 'qualifying week'

The 'qualifying week' is the 15th week before the baby is due. This is different if you adopt.

If you believe you are entitled to paternity leave, then you should raise this with your employer and inform them of this. It's usually best to raise the problem informally first. You can do this with your manager, HR or someone senior from work. Informal resolution is usually quicker and less stressful for everyone. If you are not satisfied with your employer's response you can make a complaint. If your employer has a specific policy for making discrimination complaints, you should follow that policy.

If you are still not satisfied with your employer's response to your complaint you could consider commencing legal proceedings against your employer at an Employment Tribunal. There are applicable timeframes for bringing an employment tribunal claim (ordinarily this is three months minus one day) and therefore you should contact ACAS without delay if you wish to bring a claim.

Despite doing the same job as other people, I am being paid less than them and I am the only one who identity/demographics are different?

A person who is doing the same job or work of equal value regardless of demographics, should be paid the same or equal pay. You should first try to speak to your employer to raise your concerns and resolve the issue informally. However, if you are unsuccessful, then you could also seek advice and guidance from ACAS and decide whether you would like to commence legal proceedings against your employer at an employment tribunal. There are applicable timeframes for bringing an employment tribunal claim (ordinarily three months minus one day) and therefore you should contact ACAS without delay if you wish to bring a claim.

I am wanting to have surgery to support my transition, but work won't allow me the time off, what can I do about this?

Gender reassignment is one of the nine 'protected characteristics' and if you require time off in relation to your gender reassignment, for example due to surgery, the Equality Act 2010 says it's unlawful for your employer to treat you worse or less favourably than they would if you were absent because of sickness or injury.

You should first try and speak with your line manager or HR and explain this to them on an informal basis. If you are still being denied leave, then you can raise a formal complaint to your employer, ensuring to follow any company policies for raising complaints.

If you are still unsatisfied by the response of your employer and believe you are being discriminated against and being treated worse or less favourably due to gender reassignment you could seek to bring a claim in the employment tribunal. In order to do this, you will first need to notify ACAS of your intention to bring a claim.

I have raised concerns about discrimination to my employer and they will not investigate this, what can I do?

If not done so already, you could make a formal complaint to your employer in the form of a grievance to formally raise your concerns. You should ensure to review any internal policies for raising a grievance and comply with this – the policy should contain information on how you raise a complaint and who complaints should be directed to.

If you have already done so, or the grievance is not being treated appropriately, then you could consider bringing a discrimination claim to the Employment Tribunal. To do so you will first need to notify ACAS that you intend to bring a claim.

After raising concerns/ grievance about a colleague being discriminatory, I am being treated poorly at work. What can I do about this?

If you are being treated negatively for raising your discrimination concerns, then this may amount to victimisation. The law says victimisation means 'suffering a detriment' because you've done or intend to do a 'protected act'.

A 'protected act' means taking action related to discrimination law. This includes:

- making a complaint of discrimination or harassment
- supporting someone else's complaint
- gathering information that might lead to a complaint
- acting as a witness in a complaint
- saying something or giving evidence that does not support someone else's complaint

If you think you've been victimised at work, you should raise the issue with your employer. You can raise the problem informally or formally. If the problem is still not resolved, then you could consider bringing a discrimination claim to the Employment Tribunal. To do so you will first need to notify ACAS that you intend to bring a claim.

My employer keeps using the incorrect pronoun, what should I do?

The use of personal pronouns is an important part of an individual's gender identity. Both gender reassignment and sexual orientation are protected characteristics under the Equality Act 2010, which exists to protect everyone in the UK from discrimination.

If you have communicated your pronouns to your employer and they keep using the incorrect pronoun, which can be called 'misgendering', you should first try and speak with your line manager or HR and explain to them on an informal basis that the wrong pronouns are being used. If you are still being 'misgendered', then this may amount to harassment under the Equality Act 2010. You should consider raising this formally with your employer, ensuring to follow any company policies for raising complaints.

If you are still unsatisfied by the response of your employer, you could seek to bringing a discrimination a claim in the employment tribunal. In order to do this, you will first need to notify ACAS of your intention to bring a claim.

My employer is making me use the toilet facilities of my former gender or requiring me to use the disabled facilities, what should I do?

Gender reassignment is one of the nine 'protected characteristics' under the Equality Act 2010 and medical intervention and medical processes are not required for a person to meet the definition and acquire protection of the Act.

ACAS guidance sets out that an individual should be free to choose the most suitable facilities for their gender identity, and states that transgender individuals should not be told to use disabled facilities. If you are being required by an employer to use the toilet facilities of your former gender or instructed to use the disabled toilets, this could amount to gender reassignment discrimination. Gender reassignment discrimination is



where you are treated unequally because of gender reassignment, perceived gender reassignment or the gender reassignment of someone with whom you associate.

You should first try and speak with your line manager or HR and explain this to them on an informal basis. You should explain what steps they can make in order for you to use the correct toilet facilities. If you are still being required to use the toilet facilities of your former gender or the disabled facilities, then you should consider raising this formally with your employer, ensuring to follow any company policies for raising complaints.

If you are still unsatisfied by the response of your employer and believe you are being discriminated against, you could seek to bring a claim in the employment tribunal. In order to do this, you will first need to notify ACAS of your intention to bring a claim.

If these haven't answered your questions, or you have need for more specific advice, please contact the LGBT Foundation Helpline on 0345 330 30 30 or visit lgbt.foundation/help/legal-surgeries/