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CANCER SUPPORT**

**F**

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CANCER**

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Note Macmillan Cancer Support is not in a position to provide specific employment or employment law advice. these Q&As provide an appropriate response to meet or adapt for the majority of likely situations. They will help point people in the right direction to obtain guidance.

## 1 People with cancer

### Disability Discrimination Act 2005

**Q** I have cancer. Do I have any rights under the Disability Discrimination Act 2005?

**A** A person with cancer, or who has had cancer, is automatically covered by this legislation from the point of diagnosis. This means that:

- they are protected from unfair discrimination in employment for a reason related to their disability. This protection covers, for example, matters such as an offer of employment, terms and conditions of employment and opportunities for promotion. They are protected also from being harassed or victimised because of their disability; and
- an employer/prospective employer is required to make any reasonable adjustments that would facilitate the individual's access to employment opportunities and for them to be able to perform their job effectively.

### Unfair discrimination/harassment/victimisation

**Q** I believe I am being unfairly discriminated against/harassed/victimised because I have cancer. What can I do?

**A** You can explain the situation to your line manager and they may be able to help resolve the situation. If you do not feel able to talk to them, then your HR department or another manager may be able to help.

If it is not possible to resolve the issue in this way, then you could use your organisation's grievance procedure.

If the matter is not resolved satisfactorily, you could consider submitting a claim to an employment tribunal. Advice can be obtained from your local Citizens Advice Bureau (CAB) or an employment lawyer. (Note: See question below on what to do to submit a claim to an employment tribunal). It is important that you act quickly as this needs to be done within three months of the date of the act you are complaining about.

## Dismissal

**Q** My employment is being/has been terminated because of my cancer, where can I go for advice on what to do? If I want to make a claim to an employment tribunal, what do I need to do?

**A** Your local Citizens Advice Bureau (CAB), which provides a free advisory service, or an employment lawyer will be able to give you advice.

If your employer provides an Employee Assistance Programme (EAP) – eg, a telephone helpline service – you may be able to get advice by ringing that number.

If you want to make a tribunal claim, you will need to fill out an ET1 form and send this to the tribunal office which covers the place where you work or where you applied to work. If you are not certain which is the correct tribunal office, you can contact the tribunal public enquiry line – 0845 795 9775. ET1 forms are available from your local Jobcentre or CAB.

Normally the form should be submitted within three months of the act you are complaining about. An extension to this time limit will be granted only in exceptional circumstances where the tribunal is satisfied that it was not reasonably practicable for the complaint to have been made any earlier. So, it is important that you do not miss this deadline.

You can obtain advice from:

- Your local CAB
- The Advisory, Conciliation and Arbitration Service (ACAS) – 08457 474747.

### Time off work

**Q** I have been diagnosed with cancer. What time off work am I entitled to?

**A** This will depend on your employer's policies on leave, eg sickness absence policy. You will need to refer to them and/or check with your employer.

If your employer does not have a formal policy on leave, they may still be willing to allow you some time off work to attend medical appointments and you may want to discuss this possibility with them.

You may also want to obtain advice from The Advisory, Conciliation and Arbitration Service (ACAS) – 08457 474747.

If your employer does not have a formal policy on sick pay, you may still be entitled to Statutory Sick Pay (SSP). To find out, you can speak to your employer or the Department for Work and Pensions (DWP). The DWP website address is [www.dwp.gov.uk](http://www.dwp.gov.uk). The telephone number for your local office will be in your local directory.

### Changes to work arrangements

**Q** I have been diagnosed with cancer, what changes to my work arrangements am I entitled to?

**A** You may be entitled to certain reasonable adjustments, eg a change in the times of or number of the hours you work, under the Disability Discrimination Act 2005. You can get advice on your rights under the Act from the Employment and Human Rights Commission:

#### England

Equality and Human Rights Commission Disability Helpline (England)  
FREEPOST MID02164  
Stratford upon Avon CV37 9BR

08457 622 633 – telephone  
08457 622 644 – textphone  
08457 778 878 – fax

Mon, Tue, Thu, Fri 9.00am-5.00pm;  
Wed 8.00am-8.00pm.

Email:  
[englandhelpline2@equalityhumanrights.com](mailto:englandhelpline2@equalityhumanrights.com)

#### Wales

Equality and Human Rights Commission Helpline  
Wales  
Freepost RRLR-UEYB-UYZL  
1st Floor  
3 Callaghan Square  
Cardiff CF10 5BT

0845 604 8810 – Wales telephone  
0845 604 8820 – Wales textphone  
0845 604 8830 – Wales fax

9.00am-5.00pm, Monday to Friday (an out-of-hours service will start running soon)

Email: [welshhelpline@equalityhumanrights.com](mailto:welshhelpline@equalityhumanrights.com)

#### Scotland

Equality and Human Rights Commission Helpline  
Scotland  
Freepost RRLG-GYLB-UJTA  
The Optima Building  
58 Robertson Street  
Glasgow G2 8DU

0845 604 5510 – Scotland telephone  
0845 604 5520 – Scotland textphone  
0845 604 5530 – Scotland fax

9.00am-5.00pm, Monday to Friday (an out-of-hours service will start running soon)

Email: [scotlandhelpline@equalityhumanrights.com](mailto:scotlandhelpline@equalityhumanrights.com)

#### Northern Ireland

Equality Commission for Northern Ireland  
Equality House  
7-9 Shaftesbury Square  
Belfast BT2 7DP

028 90 500 600 – Northern Ireland telephone  
028 90 500 589 – Northern Ireland textphone  
028 90 248 687 – Northern Ireland fax

Email: [information@equalityni.org](mailto:information@equalityni.org)

## Recruitment

**Q** I am applying for a job, do I have to mention that I have cancer if I am asked?

**A** Employers may ask whether an individual has a disability if it is relevant to the performance of the job being applied for, or for equal opportunity monitoring. However, they must not unfairly discriminate against someone with a disability when deciding who to offer a job to.

If you are asked during the recruitment process, including on any medical assessment form, if you have a disability, you should answer 'yes'.

Someone with cancer is automatically covered by the definition of 'disabled' under the Disability Discrimination Act. You do not have to provide this information if you do not want to, if it is for equal opportunity monitoring purposes.

If an individual does not provide information about a disability when asked during recruitment and it comes to light after they are in the job, then there could be a breakdown in trust between the employer and them.

**Q** I think I have been refused employment because I have cancer. What legal rights do I have?

**A** Under the Disability Discrimination Act 2005, it is unlawful for a person with cancer to be unfairly discriminated against by being refused employment because they have cancer.

If you think this has happened to you, then you can obtain advice from your local Citizens Advice Bureau (CAB), which provides a free advisory service, or an employment lawyer will be able to give you advice.

You can submit a claim to an employment tribunal if you believe you have a case (note: see question below on what to do to submit a claim to an employment tribunal) but it is important that you act quickly as this needs to be done within three months of the date you are refused employment.

## Employers' obligations

**Q** I have cancer and my employer has told me that they do not have to allow me any time off work, pay me if I am absent or change my working arrangements. Is this correct?

**A** First you should check what it says in your contract of employment and your employer's policies (where they exist).

Under UK law, there is no specified entitlement to time off work for an employee if they need to attend medical appointments. You may need to use holiday or ask your employer whether you may take unpaid leave. You may also want to obtain advice from the Advisory, Conciliation and Arbitration Service (ACAS) – 08457 474747.

If you are off work due to sickness, your employer does not have to pay your salary for these days unless you have a contractual entitlement. You may, however, be entitled to statutory sick pay. You can obtain advice on this from the Department for Work and Pensions (DWP). The DWP website address is [www.dwp.gov.uk](http://www.dwp.gov.uk). The telephone number for your local office will be in your local directory.

If an employee has or has had cancer they can ask their employer to consider making adjustments to their working arrangements and their employer is required to make any that are 'reasonable'. (See Q&A on the Disability Discrimination Act 2005).

## Sick pay

**Q** I have been absent from work for some time because of my cancer and my sick pay is running out, what can I do?

**A** Contact the Macmillan Benefits Helpline – Freephone 0808 801 0304 – or your local Jobcentre to see whether you are eligible to receive state Incapacity Benefit or Income Support.

### Telling others

**Q** Do I have to tell my employer and work colleagues that I have cancer?

**A** No, this is confidential information. However, if you tell your employer and work colleagues, they may be able to provide you with the support you want. And you can decide what is told to who, how and when. Also, if your work performance or attendance at work/sickness absence is affected, you may want your employer to know why.

### Confidential medical information

**Q** Does my employer have the right to see medical information about me?

**A** No. They may ask you to allow them to request relevant information from your doctor or other medical professional, as it can help them to discuss any support you may need with you, but they cannot get access to this information without your consent. Also, you have the right to see any medical report before it is provided to your employer.

## 2 Carers of people with cancer

### Time off work

**Q** I am a carer, what time off work am I entitled to?

**A** This will depend on your employer's policies on leave, eg carers policy. You will need to refer to them and/or check with your employer.

If your employer does not have a formal policy, they may still be willing to allow you some compassionate leave and you may want to discuss this possibility with them.

Also, you have a legal right to a reasonable amount of unpaid leave to deal with emergencies concerning dependants and make longer-term arrangements where necessary. Reasonable time off is not defined but guidance on the law says that in most cases one or two days would be considered sufficient.

### Changes to work arrangements

**Q** I have a caring responsibility for someone affected by cancer, what changes to my work arrangements am I entitled to?

**A** You may be entitled to changes if you are:

- the carer of a child under six years old (18 if they are disabled) or an adult who is a spouse, partner, civil partner or relative; or who lives at the same address as you; and
- have 26 weeks' continuous employment with your employer; and
- have not made a formal request to work flexibly in the past 12 months,
- then you are entitled to request to work flexibly.

This may mean a change to:

- the times you work
- the number of hours you work; or
- working from home.

More information can be obtained from:

- your local Citizen Advice Bureau (CAB)
- Carers UK: <http://www.carers.org>
- ACAS (Advisory, Conciliation and Arbitration Service)  
Helpline number: 08457 474747  
Website: [www.acas.org.uk](http://www.acas.org.uk)

Also, your employer may have a flexible working policy that goes beyond the legal requirements.

## Employers' obligations

**Q** I have a caring responsibility for someone who has cancer and my employer has told me that they do not have to allow me any time off work, pay me if I am absent or change my working arrangements. Is this correct?

**A** First you should check what it says in your contract of employment and your employer's policies (where they exist).

Under UK law, employees have the right to take a 'reasonable' amount of time off work to deal with an emergency involving a dependant. What is 'reasonable' time off depends on the particular circumstances. Government guidance suggests this will normally be up to two days at most.

A dependant could be a spouse, partner, child, parent or someone who lives with you and is dependent on you.

An emergency may include:

- a dependant falling ill
- a disruption or breakdown in care arrangements
- needing to make longer term arrangements for a dependant who is ill (but not providing long-term care yourself)
- the death of a dependant.

Whether the time off is paid or not is at the discretion of the employer.

If any time off allowed under this entitlement is not sufficient to deal with your situation, you may need to use holiday or ask your employer for unpaid leave. If you are caring for a child with cancer, you may be entitled to parental leave. This is unpaid. More information about this is available from ACAS (Advisory, Conciliation and Arbitration Service).  
Helpline: 08457 474747  
Website: [www.acas.org.uk](http://www.acas.org.uk)

The Families & Work Act 2006 entitles carers of children and certain adults to request to work flexibly. The employer must give the request serious consideration but may refuse it on certain grounds. (See Q&A on changes to work arrangements).

## Macmillan Cancer Support

89 Albert Embankment, London SE1 7UQ  
CancerLine 0808 808 2020

[www.macmillan.org.uk/work](http://www.macmillan.org.uk/work)

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