

YOUR RIGHTS AT WORK WHEN YOU ARE AFFECTED BY CANCER

Work and cancer series - for people living with cancer





The Macmillan work and cancer series

Macmillan produces a range of information about work and cancer.

For people living with cancer:

- Work and cancer
- Questions to ask about work and cancer

For employers:

- 10 top tips for line managers
- Managing cancer in the workplace

For people caring for someone with cancer:

- Working while caring for someone with cancer
- Questions for carers to ask about work and cancer

For self-employed people with cancer:

• Self-employment and cancer

More information:

Your rights at work when you are affected by cancer

About this booklet

This booklet is about your legal rights. It is for people affected by cancer, including carers, who would like to know more about their rights at work.

Legislation protects you from being treated unfairly at work because of cancer. This booklet explains what it means to be discriminated against because you have cancer, and how the law can protect you.

Legislation does not just protect employees. It also protects people applying for jobs and people who are self-employed.

How to use this booklet

This booklet is split into sections to help you find what you need. You do not have to read it from start to finish. You can use the contents list on page 5 to help you.

It is fine to skip parts of the booklet. You can always come back to them when you feel ready.

On pages 64 to 67, there are details of other organisations that can help.

Quotes

In this booklet, we have included guotes from people affected by cancer in the workplace. Some are from our Online Community (macmillan.org.uk/community). The others are from people who have chosen to share their story with us. This includes Gentian, who is on the cover of this booklet. To share your experience, visit macmillan.org.uk/shareyourstory

For more information

If you have more questions or would like to talk to someone, call the Macmillan Support Line free on 0808 808 00 00, 7 days a week, 8am to 8pm or visit macmillan.org.uk

If you would prefer to speak to us in another language, interpreters are available. Please tell us, in English, the language you want to use.

If you are deaf or hard of hearing, call us using NGT (Text Relay) on **18001 0808 808 00 00**, or use the NGT Lite app.

We have some information in different languages and formats, including audio, eBooks, easy read, Braille, large print and translations. To order these visit macmillan.org.uk/otherformats or call 0808 808 00 00.



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Your rights

If you have cancer, the law considers this as a disability. This means you cannot be treated less favourably than other people (who do not have cancer) because you have cancer, or for reasons connected to the cancer. That would be discrimination.

There are laws that protect you from being discriminated against at work because of cancer:

- If you live in England, Scotland or Wales, the Equality Act 2010 protects you.
- If you live in Northern Ireland, the Disability Discrimination Act 1995 protects you.

These laws do not just protect employees. They also protect people applying for jobs and, in some cases, people who are self-employed.

The legal protection against discrimination does not end when your cancer treatment finishes. If you have been diagnosed with cancer in the past, you will continue to have legal protection against discrimination even when you no longer have cancer (remission). You will also have protection if you move to another employer.

Carers are also protected from some types of discrimination. There is more information about this on pages 34 to 39.

Which areas of employment are covered?

The Equality Act and the Disability Discrimination Act cover all areas of employment. This includes:

- recruitment
- terms and conditions of employment, and any benefits
- opportunities for promotion and training
- ending your employment.

There is more information about the different types of discrimination that you are protected against on pages 17 to 24.



How to check your rights

There are many ways to check your employment rights for free:

- check your employer's policies and talk to a human resources (HR) manager
- contact your trade union if you are a member
- visit macmillan.org.uk/work where you can download our guide to reasonable adjustments
- contact Citizens Advice (see pages 64 to 65)
- visit gov.uk if you live in England, Scotland and Wales or nidirect.gov.uk if you live in Northern Ireland
- contact the Equality Advisory Support Service if you live in England, Scotland and Wales (see page 65) or the Equality Commission for Northern Ireland (see page 65) for free, confidential advice
- contact the Advisory, Conciliation and Arbitration Service (Acas) if you live in England, Scotland or Wales (see page 64) or the Labour Relations Agency if you live in Northern Ireland (see page 65)
- call the Macmillan Support Line on **0808 808 00 00** to speak to our work support team.

If you think your employer is not respecting your rights, it is a good idea to talk to an employment lawyer or an employment organisation (see pages 64 to 66). There may be professional groups in your area that can give you advice about employment issues. You can ask your specialist nurse if there are any groups near you.

If you think you are being discriminated against, there is information about things you can do to help yourself on pages 42 to 43. If you can, resolve any problems informally before starting any formal processes (see pages 44 to 51). You can try to do this by talking to your manager about the issues. Depending on your situation, you may find you need to take more formal action. These might include:

- a formal complaint (grievance complaint)
- an employment tribunal
- an industrial tribunal.

'I was aware I had some rights as I have had cancer in the past, but did not know the full extent of the Equality Act 2010.'

Gentian

Reasonable adjustments

Reasonable adjustments are changes to the workplace or your job that allow you to keep working or return to work. If you are in paid employment and have or have had cancer, your employer should consider making reasonable adjustments to support you.

Both the Equality Act and the Disability Discrimination Act say that your employer must make reasonable adjustments. Your employer must make reasonable adjustments when the workplace or work practices put you at a 'substantial disadvantage' because you have cancer. This is compared with colleagues who do not have cancer. The disadvantage has to be 'more than minor or trivial'.

You do not have to tell your employer you have cancer. But they do not have to make a reasonable adjustment unless they know (or should reasonably know) that you have cancer. For example, if you are behaving differently because of cancer, but your employer does not know you have cancer, it is reasonable for your employer to check whether your behaviour is connected to a disability. They can then ask how they might be able to support you.

There is no fixed description of what a reasonable adjustment should be. It will depend on:

- how much the adjustment will help you
- how practical it is to make the adjustment
- the cost of making the adjustment
- how the adjustment will affect your employer
- the size of the company or organisation you work for, and the resources it has

Your employer should talk with you about possible adjustments. You should be involved in every stage. It is best for both you and your employer to work together.

Our guide to reasonable adjustments is available to download from macmillan.org.uk/documents/cancerinfo/ reasonableadjustmentsguide.pdf You could use the guide to help you talk to your employer about returning to work or staying in work.

'I was given the option of signing off sick straight away, but I chose to continue working until my treatment started. I felt it was important for me to keep myself busy and continue as normally as possible for as long as I could. My employers were flexible with allowing me to work from home, which was really helpful.'

Gentian

Examples of reasonable adjustments

The type of reasonable adjustment always depends on the situation. Reasonable adjustments could include:

- a phased return to work
- different working hours, such as working part-time, having a flexible start or finish time or working from home
- giving you time off to go to medical appointments or for rehabilitation
- changing your job description to remove tasks that are particularly difficult for you
- allowing you to do light duties for a time
- moving you to a job with more suitable duties, if you agree
- changing performance targets to allow for any sick leave and side effects, such as tiredness (fatigue).

There may also be practical adjustments your employer can make. These could include:

- extra breaks to help you cope with tiredness
- a place to rest away from your desk, if you need to
- a parking space near your work
- computer equipment that might help for example, voice-activated software if you cannot type
- changing where you work for example, moving you to a ground floor office if you get breathless
- making sure you have suitable access if you are using a wheelchair or crutches
- making sure you can get to the toilet easily.

'Macmillan emailed me the reasonable adjustments template for me to fill in and pass on to my agency. I also spoke to the Welfare Rights team for financial support.'

James



Types of disability discrimination

Employment laws provide protection against different types of disability discrimination. The Equality Act protects people in England, Scotland and Wales from all of them. The Disability Discrimination Act protects people in Northern Ireland from some of them.

If you live in England, Wales, Scotland or Northern Ireland, you are protected from:

- direct disability discrimination
- harassment because of a disability
- victimisation (with some differences in Northern Ireland)
- failure to make a reasonable adjustment (see pages 12 to 15).

If you live in England, Wales or Scotland, you are also protected from:

- discrimination arising from disability
- indirect disability discrimination.

Over the next few pages, there is information about these different types of discrimination and examples of discrimination in the workplace.

Direct disability discrimination

Protection from direct disability discrimination applies in England, Scotland, Wales and Northern Ireland.

Direct disability discrimination is when someone with a disability is treated less favourably than another person (without a disability), because they have a disability.

Sometimes, this type of discrimination happens even if someone feels they are trying to help. For example, your employer might say that being promoted would be too difficult for you, because of the cancer. You can ask to have a conversation with your employer about the impact of a new job on your health. This way, you decide together what is best for you.

Some problems may happen because of misunderstandings about cancer. Some examples of this are if:

- your employer thinks that you cannot do the same job any more
- your employer assumes that you will be less committed to work
- your employer thinks that the stress of having cancer makes you less suitable for promotion
- your colleagues think they will need to do extra work to make up for you being off sick.

Any of these attitudes towards people with cancer can lead to discrimination at work.

To claim direct discrimination, your employer does need to know, or be reasonably expected to know, that you have a disability.

Razia's story

Razia applied for a job, but she was rejected because the employer knew that she had had cancer in the past. The employer was worried that Razia would have to take sick leave if the cancer came back.



Discrimination arising from disability

Protection from discrimination arising from disability (DAD) applies in England, Scotland and Wales, but not Northern Ireland.

Discrimination arising from disability is when someone with a disability such as cancer is treated unfavourably because of something that happens as a result of their disability. This is different to direct disability discrimination, which is discrimination based on the disability itself.

With discrimination arising from disability you do not need to show that a non-disabled person would have been treated differently. Instead, you have to show that the unfavourable treatment you have experienced is because of something that happened as a result of the disability.

Direct disability discrimination cannot be justified (considered fair). In some cases, discrimination arising from disability may be justified if your employer can show they acted in a way that was necessary. For example, it might be justified if their actions were for a genuine business need. Deciding what is justified depends on the case. If the employer could have made reasonable adjustments that would have prevented any unfavourable treatment, it will be difficult for them to justify a case of discrimination arising from disability.

To claim discrimination arising from disability, your employer does need to know, or be reasonably expected to know, that you have a disability.

Dafydd's story

Dafydd missed targets at work because of treatment and fatigue related to his cancer. His boss gave him a bad review because of this. Acting this way towards Dafydd means he can claim discrimination arising from disability (DAD). It is unlikely that

his employer could justify their actions, because reasonable adjustments could have been made. For example, his boss could have set different targets based on the impact fatigue had on Dafydd's work.

Indirect disability discrimination

Protection from indirect disability discrimination applies in England, Scotland and Wales but not Northern Ireland.

Indirect disability discrimination is when a rule, policy or practice appears to treat all employees the same, but it actually puts employees with a disability at a disadvantage compared with employees who do not have that disability.

An employer may be able to justify their actions if they can show that there is a genuine business need. For example, they may be justified if the rule, policy or practice is necessary and there is not a non-discriminatory option available.

To claim indirect disability discrimination, your employer does not need to know about your disability.

Kathleen's story

Kathleen's company had to make some people redundant. One way they decided who to make redundant was based on how much sick leave people had taken. Kathleen had taken time off work because of cancer. She was at a disadvantage, because she had taken more sick leave than other colleagues without cancer. This could be considered indirect discrimination, unless the employer could justify their actions.

Harassment

Protection from harassment because of disability applies in England, Scotland, Wales and Northern Ireland.

Harassment is when someone treats you in a way that makes you feel uncomfortable, insulted, or intimidated. This might include written or spoken comments, or being teased. When this behaviour is related to cancer, you are protected by law.

Rebecca's story

Rebecca lost her hair after having chemotherapy. Her colleagues teased her about her hair loss. She felt humiliated, but did not feel able to challenge them. This would be considered harassment.

Victimisation

Protection from victimisation applies in England, Scotland and Wales, and partly in Northern Ireland.

Victimisation is when you are treated badly because you have done, or intend to do, something that is protected by law (a protected act). Protected acts include:

- making a complaint about discrimination or harassment under the Equality Act or the Disability Discrimination Act
- helping someone else to make a complaint about discrimination or harassment.

You do not have to be disabled to claim victimisation. You only have to show that you have done a protected act.

In England, Scotland and Wales, under the Equality Act, you do not need to show that you have been treated less favourably than someone who has not made a complaint. You only need to show that you were treated badly.

In Northern Ireland, under the Disability Discrimination Act, you also need to show that you have been treated less favourably than someone who has not made a complaint.

You are not protected by this legislation if you do not act honestly and do not believe what you are saying is true. However, you are protected if you give information that is wrong, but which you thought was true at the time.

Jim's story

Jim needed time off from work to go to a chemotherapy appointment. His boss was being difficult about his request. Jim reported the problem to the human resources (HR) manager and said that he believed his manager was discriminating against him. The HR manager told Jim's boss about this discussion. Jim's boss was angry that Jim had spoken to the HR department, so she stopped him from going on a training course. She also gave him a bad review, without a proper reason for doing so.

Vicarious liability

An employer can be held responsible for how its employees behave during their employment. This is called vicarious liability. An employer could be vicariously liable for acts of discrimination, harassment or victimisation that are done by other employees. An employer can still be vicariously liable if they are unaware that the acts are happening.

An employer could also be vicariously liable for harassment that you experience from other employees because you are a carer (see pages 33 to 39).

Paula's story

Paula's husband Mark was having chemotherapy. While Paula was at work, her colleague made offensive comments about Mark having cancer and about his hair loss. These comments made Paula feel very upset and humiliated. She felt unable to deal with work. Paula's employer could be held responsible for this harassment under vicarious liability, unless they can show they took all reasonable steps to prevent the harassment. For example, if they could show they had provided equality training for all staff and made policies to prevent discrimination from happening.



Examples of disability discrimination

Discrimination based on having cancer can happen in different ways. Here are some examples of disability discrimination that may happen if you are affected by cancer:

- An employer not making any reasonable adjustments to help you do your job (see pages 12 to 15).
- An employer giving you a formal warning for having a lot of time off sick, without taking your cancer diagnosis into account.
- An employer suggesting that it would be better if you retired or stopped working, because you have cancer.
- Being dismissed for a reason related to having cancer.
- Being moved to a lower-paid or less demanding job without your agreement, for a reason related to having cancer.
- Not getting a promotion when someone with less experience or less ability to do the job does, because of a reason related to having cancer.
- Being chosen for redundancy for a reason related to having cancer. For example, being chosen because you have used more sick leave than your colleagues, due to cancer or treatment.
- Not being offered a job because you have cancer.
- Not being allowed time off for medical appointments that are related to having cancer.
- Having a bad appraisal or performance review for a reason related to having cancer. For example, having a bad review because you have had a lot of sick leave or tiredness and so have not met targets or objectives.

- An employer making it difficult for you to get any sick pay you are entitled to.
- Being a victim of harassment based on you having cancer (see page 22). This is when an employer or colleague bullies you, insults you, or makes you feel uncomfortable or intimidated. For example, harassment might be colleagues laughing at you or making negative comments about hair loss you have from treatment.
- Experiencing victimisation based on you having cancer (see pages 22 to 23). This is when you are treated badly because you complain about discrimination, or help someone make a complaint about discrimination. Or it could be because your employer thinks you might make a complaint.

Questions about your health during recruitment

Recruitment is about selecting the right person for a job. It means considering their experience, personal qualities and qualifications. Questions about a person's health during recruitment are unlawful, except in specific situations.

England, Scotland and Wales

When you apply for a job, an employer can only ask questions about your health before they offer you a job in order to:

- monitor who is applying for the job to make sure they are not discriminating against anyone in their application process
- make sure they recruit people from a range of different groups, such as people with disabilities or people from ethnic minorities - this is called taking positive action
- check whether you need any reasonable adjustments for the recruitment process – for example, if you need to have the interview in a ground floor room
- find out whether a health condition could prevent you from doing a task that is a main part of the job – for example, if a job requires a lot of heavy lifting.

An employer can ask you about your health after you have been offered the job. But if an employer takes away a job offer because of what you have told them about your health, they must have a reason that does not discriminate against you. They also have to think about any reasonable adjustments they could make to allow you to do the job.

Northern Ireland

An employer can ask you about your health when you apply for a job. But they cannot discriminate against you because of your disability when you apply for a job.

An employer must also think about any reasonable adjustments they could make to allow you to do the job (see pages 12 to 15).

'Nobody with cancer should have to fight their employers. The cancer is hard enough on its own.'

Cathy



Confidentiality

Everyone who lives in the UK has the right to have their personal information kept private. This includes medical information. This right is protected under the Human Rights Act 1998, the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016.

The Access to Medical Reports Act 1988 also says that your employer must ask you for your permission to get a medical report on your health from your doctor or other health professional. You have the right to:

- ask for and see the report before it is given to your employer
- refuse permission for them to get the report.

You may want to talk to your employer about whether you want colleagues and clients to be told about your condition. Your employer should not give out this information without your permission (consent).

Your employer should take care to protect your personal records, including emails and any meeting notes containing details about your condition. This type of personal data should only be used with your permission.



YOUR RIGHTS AT WORK IF YOU ARE A CARER

How carers are protected from discrimination

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How carers are protected from discrimination

If you are a carer, there are laws that protect you from being discriminated against at work because of your connection with a disabled person (associative discrimination):

- If you live in England, Scotland or Wales, the Equality Act 2010 protects you.
- If you live in Northern Ireland, the Disability Discrimination Act 1995 protects you.

Carers may be protected against associative discrimination in situations where they have experienced one of these types of discrimination:

- direct discrimination (see opposite)
- harassment (see opposite)
- victimisation (see page 36).

Your employer does not have to make reasonable adjustments if you are not disabled (see pages 12 to 15). This applies to carers too. However, other laws may give you the right to request flexible working, and the right to a reasonable amount of time off work for caring responsibilities.

Direct disability discrimination

This is when you are treated less favourably than somebody else because you are connected to someone who has cancer.

Direct disability discrimination includes situations where, because you are a carer for someone with a disability, you are:

- not offered a job
- refused promotion, for example because your employer is worried you will not be focused on the job
- given worse employment terms (for example, lower pay).

Harassment

This is when a person is treated in a way that makes them feel uncomfortable, insulted or intimidated, and this behaviour is related to your association with the person with cancer. This might include written or spoken comments, or jokes.

Protection from harassment applies in England, Scotland, Wales and Northern Ireland.

Victimisation

This is when you are treated badly because you have done, or intend to do, something that is protected by law (a protected act). Protected acts include:

- making a complaint about discrimination or harassment under the Equality Act or the Disability Discrimination Act
- helping someone else make a complaint about discrimination or harassment.

Protection from harassment applies in England, Scotland, Wales and partly in Northern Ireland.

Flexible working

If you are a carer, flexible working could make it easier for you to keep working while caring for someone. Carers have a legal right to request flexible working under the following laws:

- The Employment Rights Act 1996, if you live in in England, Scotland and Wales, and have been working for your employer for 26 continuous weeks.
- The Work and Families (Northern Ireland) Act 2015, if you live in Northern Ireland.



Time off in an emergency

As a carer, you also have the legal right to take a reasonable amount of time off work to deal with an emergency that involves the person you care for. If you are an employee, you have this right under the following laws:

- The Employment Rights Act 1996, if you live in England, Scotland and Wales.
- The Employment Rights (Northern Ireland) Order 1996, if you live in Northern Ireland.

The person you are caring for is called your dependant. This person could be:

- a mother, father, son, daughter, spouse or civil partner
- anyone who lives with you, but is not a tenant, lodger, boarder or employee
- someone who relies on you to help them if they become ill
- someone who needs you to make care arrangements for them.

An emergency might include:

- an unexpected change or problem with care arrangements
- the person you care for becoming ill, giving birth, being injured, being assaulted or having an accident
- you needing to make care arrangements when your dependant is ill or injured - this could mean arranging for a temporary carer, but not taking extra time off to care for the dependant yourself
- the death of a dependant
- you having to deal with an unexpected incident that involves your child during school hours.

You do not need to have been in your job for a certain amount of time before you can take time off to help someone you look after in an emergency. But how much time off you can have depends on the situation. Your employer may decide, by looking at what has happened, how close your relationship is to the dependant and whether someone else could help instead.

To use this type of time off, you must tell your employer about the emergency as soon as possible. If you can, tell them when you expect to return to work. The time off is likely to be unpaid, but this depends on your employer's policies.

Your legal right to time off in an emergency does not apply if you want to take planned time off to care for someone. For example, it would not apply if you want to take them to a medical appointment.

Your employer may have a policy for other types of time off for carers. Or you could talk to them about arranging time off. Some options could be:

- carers' leave (paid or unpaid)
- compassionate leave
- flexible working
- borrowing holiday days from next year or buying additional days
- career breaks and sabbaticals (usually unpaid).

It is up to your employer to decide whether or not to agree to these other types of time off.

If you experience discrimination at work as a carer, there are organisations that can give you advice on your employment rights - see pages 64 to 66. Carers UK can also give you advice on employment issues and rights, including time off (see pages 64 to 65). You can also order our booklet Working while caring for someone with cancer (see page 60).



WHAT YOU CAN DO

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Are you being discriminated against?

If you feel you are being discriminated against, it is best to start by talking to your:

- supervisor
- manager
- human resources (HR) manager.

Talking openly to your employer about your needs and their needs may help to resolve the problem.

If you do not feel you can talk to your manager, you can ask someone in the HR department or an occupational health adviser for help. If you are a member of a trade union, you can get help and support from a union representative.

What you can do for yourself

- Find out about relevant company policies from your line manager or HR manager. Check the employee handbook or intranet if you have it.
- Check your legal rights (see pages 10 to 11).
- Try to go to your employer with suggestions and solutions. This will demonstrate your commitment to your job. These might include reasonable adjustments like working from home, changing your hours, changing your role or job description, changing your targets or objectives, changing to lighter duties, or a combination of these.

- If you go back to work after long-term sick leave, suggest a phased return. This is when you increase your hours slowly over a period of time.
- Your employer may find it helpful to have medical advice on the support you need. Your GP can provide this in a fit note. Or your employer may be able to refer you to an occupational health service.
- Contact your trade union (if you are a member of one).
- If you need adjustments to your workplace, the Access to Work scheme might be able to provide grants for equipment or help with transport to work. Visit Access to Work at gov.uk/access-to-work or NiDirect at nidirect.gov.uk/ articles/access-work-practical-help-work if you live in Northern Ireland.
- Contact the Work Support service on the Macmillan Support Line by calling 0808 808 00 00.

You can get more information at macmillan.org.uk/work You can also download our guide to reasonable adjustments from macmillan.org.uk/documents/cancerinfo/ reasonableadjustmentsguide.pdf

'If someone is thinking about returning to work, I would advise them to contact Macmillan. Also to speak to their employers, who should help facilitate their return.'

Gentian

Unresolved problems

We cannot describe all the possible discrimination that may happen, or explain your specific rights in each situation. There may also be other employment rights not covered here that apply to you.

If you feel your employer is not acting in a reasonable and fair way, and you have not been able to resolve the problem in a way that you are happy with, you may want to think about making a formal complaint. This is sometimes called a formal grievance.

Your employer should have a written grievance policy that explains how to make a formal complaint. If you are not sure what the grievance policy says, or you do not know where to find it, ask a HR manager.

If you need to take legal action, it is important to get advice as soon as possible. This is because there are time limits for making a claim to a tribunal. It is a good idea to get advice from a staff or union representative if you have one. Or you can get more information from:

- the Advisory, Conciliation and Arbitration Service (Acas) in England, Scotland and Wales (see page 64)
- the Labour Relations Agency (LRA) in Northern Ireland (see page 65)
- other organisations that can help (see pages 64 to 66)
- our Work Support service, by calling **0808 808 00 00**.

Employment tribunals – England, Scotland and Wales

If you feel your employer is being unreasonable and has not dealt with your grievance fairly, you can complain to an employment tribunal. This is an independent body that makes decisions in legal disputes between employees and employers.

If you are thinking about making a claim to an employment tribunal, it is a good idea to contact one of the following:

- a union representative if you have one
- the Advisory, Conciliation and Arbitration Service (Acas) see page 64
- a solicitor who specialises in employment law.

We have details of organisations that can help (see pages 64 to 66).

There are specific steps you need to follow in the process for making a complaint to an employment tribunal:

- Before you make a claim to an employment tribunal, make sure you have submitted a formal grievance to your employer. You should use your employer's internal grievance policy to do this. If you have not done this first and your claim to the tribunal is successful, the tribunal can reduce any compensation you get by 25%.
- If you are unable to resolve the problem through your employer's formal grievance process, you must start the Acas early conciliation process before you can make a claim to an employment tribunal. This process aims to help an employee and their employer resolve the dispute without needing to make a claim. You can find out more about early conciliation at acas.org.uk

- When the Acas early conciliation process has ended, you will get a certificate from Acas with an early conciliation number. You must keep this number. If you do not resolve your dispute during early conciliation, you need the number to make a claim. You can find out how to make a claim at gov.uk/employmenttribunals/make-a-claim
- When you make a claim to an employment tribunal it will be processed. It is then sent to your employer. They must respond to your claim within 28 days.
- When your employer has responded to your claim, the employment tribunal decides what the next steps will be. The decision process usually includes a full hearing of your case. An employment tribunal hearing is normally held at the employment tribunal office closest to your workplace. A panel listens to your case and makes a decision.
- If your employer does not respond to your claim, the employment tribunal may decide on your case without a hearing. However this is not auaranteed.

'Some employers are very supportive, while others are not. We can give advice on what employers' responsibilities are. It is about helping people to know their rights. But it is also about making people feel supported and confident to speak to their employers.'

Tracey (Macmillan professional)

Industrial tribunals in Northern Ireland

If you feel your employer is being unreasonable and has not dealt with your grievance fairly, you can complain to an industrial tribunal. This is a legal body that makes decisions in legal disputes between employees and employers.

If you are thinking about making a claim to an industrial tribunal, it is a good idea to contact one of the following:

- a union representative if you have one
- the Labour Relations Agency (LRA)
- a solicitor who specialises in employment law
- another organisation that can help (see pages 64 to 66).

There are specific steps you need to follow in the process of making a complaint to an industrial tribunal:

- Before you make a claim to an industrial tribunal, make sure you have submitted a formal grievance to your employer. You should use your employer's internal grievance policy to do this. If you have not done this first and your claim to the tribunal is unsuccessful, you may have to pay your employer's costs.
- If you are unable to resolve the problem through your employer's formal grievance process, you could contact the LRA. They offer a free service to try and help an employee and their employer resolve the dispute without needing to make a claim to an industrial tribunal. This is called conciliation (see page 51).
- If you do not resolve your dispute, or you decide not to take part in conciliation, you can make a claim to an industrial tribunal. It is a good idea to get advice about whether or not to do this. You can find out more about how to make a claim at nidirect.gov.uk/articles/employment-related-tribunals

- When you make a claim to an industrial tribunal it will be processed. It is then sent to your employer. They must respond to your claim within 28 days.
- When your employer has responded to your claim, the industrial tribunal decides what the next steps will be. The decision process usually includes a full hearing of your case.
- If your employer does not respond to your claim, the industrial tribunal may decide on your case without a hearing. However this is not guaranteed.
- A tribunal hearing is normally held in Belfast. Sometimes it is held at other centres throughout Northern Ireland. A panel listens to your case and makes a decision.



Time limits

There are short, strict time limits for making a claim to an employment or industrial tribunal. You will usually need to make your claim within 3 months, minus 1 day, of when the problem happened. For example, if you were discriminated against on 13 July, you need to start the process by 12 October. But there are a few exceptions. It is important to get advice as soon as possible. You could contact one of the organisations on pages 64 to 66.

Legal aid

If you have a low income, you may be able to get legal aid to help with the cost of employment cases. This will depend on your situation and what you need help with. For more information about legal aid visit:

- qov.uk/legal-aid if you live in England and Wales
- mygov.scot/legal-aid if you live in Scotland
- nidirect.gov.uk/articles/legal-aid if you live in Northern Ireland.

If you have an insurance policy such as home insurance, you can also check this to see if it provides cover for legal expenses in employment tribunal cases.

Providing evidence

When you are involved in a formal process, you will need to provide evidence about what happened. You will need to do this as part of an internal grievance process or an employment or industrial tribunal

To help with this, it is a good idea to write down or save information about meetings, conversations and phone calls. You should do this if you are concerned about how your employer is behaving at any point. Your notes should include dates, times and locations. It is also important to keep a copy of all the related documents you send or receive. This includes documents related to the behaviour you are concerned about, or related to any formal processes, such as a grievance process.

You should think carefully before taking any formal action. Think about what you want to happen, and the possible outcomes.

Citizen's Advice and other organisations can give you further support and advice if you have an unresolved problem at work - see pages 64 to 66 for their contact details.

Conciliation

If you make a claim to an employment or industrial tribunal, they allocate a person to your case. In England, Scotland and Wales, this person is called a conciliator. In Northern Ireland, they are called a conciliation officer. They can offer support to you and your employer to resolve the dispute. This can help you both avoid a hearing at an employment or industrial tribunal.

If you live in England, Scotland or Wales, conciliation is offered by Acas. If you live in Northern Ireland, it is offered by the LRA.

The conciliator or conciliation officer contacts everyone involved as quickly as possible. They do not make you take any action. They try to help you come to an agreement in a way you are happy with. They are also impartial. This means they do not:

- represent either the employer or the employee
- take sides or judge who is right or wrong
- give a strong opinion on how successful a claim might be
- give advice about tactics, or how to win at a tribunal
- pressurise people to settle or abandon a case.

Conciliation is voluntary. You only take part if you want to, and you can stop at any time. It is also confidential. This means information is not passed to anyone else without your agreement. What you say during conciliation cannot be used as evidence against you at a tribunal hearing.

Conciliation is separate from the tribunal process. If you cannot resolve the dispute through conciliation, your claim will need to go through an employment or industrial tribunal. Conciliation does not delay the employment or industrial tribunal process.

You can find out more about conciliation at **acas.org.uk** in England, Scotland or Wales, or Ira.org.uk in Northern Ireland.



FINANCIAL SUPPORT

Financial help and benefits

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Financial help and benefits

When you are affected by cancer, you might need help with extra costs. Or you might need financial support if you have to stop working.

Statutory Sick Pay

If you work for an employer and take time off sick, you may be able to get Statutory Sick Pay. Your employer will pay this for up to 28 weeks.

Benefits

Benefits are payments from the government to people who need financial help. You can find out more about benefits and apply for them online. Go to **gov.uk** if you live in England, Wales and Scotland, or **nidirect.gov.uk** if you live in Northern Ireland.

Here are some benefits that you might be able to get if you are affected by cancer.

Employment and Support Allowance (ESA)

This benefit is for people under State Pension age who cannot work because of illness or disability. There are different types of ESA:

- Contribution-based ESA may be available if you have paid enough National Insurance.
- Income-related ESA may be available if your income and savings are low, or if you cannot get contribution-based ESA. Income-related ESA is gradually being replaced by a new benefit called Universal Credit.

Personal Independence Payment

This benefit is for people aged between 16 and 64 who have problems moving around and looking after themselves. You must have had these difficulties for at least 3 months and expect them to last for at least 9 months.

Attendance Allowance

This benefit is for people gaed 65 or over who have problems looking after themselves because of an illness or disability. This could mean getting out of bed, having a bath or getting dressed. You must have had these problems for at least 6 months.

Special rules

If you are terminally ill, and your doctor thinks you may be expected to live for less than 6 months, you can apply for some benefits using a fast-track process called special rules. Your claim will be dealt with quickly and you will get the benefit you applied for at the highest rate. It does not matter if you live longer than 6 months. Your doctor or specialist nurse will need to fill out a form for you.

Help for carers

Carer's Allowance is a weekly benefit that helps people who look after someone with a lot of care needs. If you do not qualify for it, you can apply for Carer's Credit.

Carer's Credit helps prevent gaps in your National Insurance record if you have to stop working while you are caring for someone else. You do not get money, but it protects your right to a State Pension later in life.

Macmillan Grants

Macmillan Grants are small, mostly one-off payments to help people with the extra costs that cancer can cause. They are for people who have a low level of income and savings.

If you need things like extra clothing, help paying heating bills or even a relaxing holiday, you may be able to get a Macmillan Grant.

How much you get will depend on your situation and needs. The average grant is around £380, but this may change. A grant from Macmillan would not normally affect the benefits you are entitled to. It is an extra bit of help, not a replacement for other support.

Insurance

If you have, or have had, cancer, you may find it hard to get certain types of insurance. This includes life and travel insurance. A cancer diagnosis might also mean that you can get a payout from an insurance scheme that you already have.

If you are looking into buying insurance or making a claim, one of our financial advisers can help. Call 0808 808 00 00.

We have more information in our booklets **Insurance** and **Travel and cancer** – see page 60. We also have a forum on our Online Community called Travel insurance, which may be helpful. Visit macmillan.org.uk/travelinsurancegroup

More information

The benefits system and other types of financial support can be hard to understand. Macmillan has experienced welfare rights advisers and financial guides. You can speak to one by calling the Macmillan Support Line on **0808 808 00 00**.

You can also get information about benefits and other types of financial help from Citizens Advice – see pages 64 to 65.

Our booklet **Help with the cost of cancer** has lots more information - see page 60.



FURTHER INFORMATION

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About our information

We provide expert, up-to-date information about cancer. And all our information is free for everyone.

Order what you need

You may want to order more booklets or leaflets like this one. Visit **be.macmillan.org.uk** or call us on **0808 808 00 00**.

We have booklets about different cancer types, treatments and side effects. We also have information about work, financial issues, diet, life after cancer treatment and information for carers, family and friends.

Online information

All our information is also available online at macmillan. org.uk/information-andsupport You can also find videos featuring stories from people affected by cancer, and information from health and social care professionals.

Other formats

We also provide information in different languages and formats, including:

- audiobooks
- Braille
- British Sign Language
- easy read booklets
- eBooks
- large print
- translations.

Find out more at macmillan. org.uk/otherformats If you would like us to produce information in a different format for you, email us at

cancerinformationteam@ macmillan.org.uk or call us on 0808 808 00 00.

Other ways we can help you

At Macmillan, we know how a cancer diagnosis can affect everything, and we're here to support you.

Talk to us

If you or someone you know is affected by cancer, talking about how you feel and sharing your concerns can really help.

Macmillan Support Line

Our free, confidential phone line is open 7 days a week, 8am to 8pm. Our cancer support specialists can:

- help with any medical questions you have about cancer or your treatment
- help you access benefits and give you financial guidance
- be there to listen if you need someone to talk to
- tell you about services that can help you in your area.

Call us on **0808 808 00 00** or email us via our website, macmillan.org.uk/talktous

Information centres

Our information and support centres are based in hospitals, libraries and mobile centres. There, you can speak with someone face to face.

Visit one to get the information you need, or if you'd like a private chat, most centres have a room where you can speak with someone alone and in confidence.

Find your nearest centre at macmillan.org.uk/ informationcentres or call us on **0808 808 00 00**.

Talk to others

No one knows more about the impact cancer can have on your life than those who have been through it themselves. That's why we help to bring people together in their communities and online.

Support groups

Whether you are someone living with cancer or a carer, we can help you find support in your local area, so you can speak face to face with people who understand. Find out about support groups in your area by calling us or by visiting macmillan.org.uk/ selfhelpandsupport

Online Community

Thousands of people use our Online Community to make friends, blog about their experiences and join groups to meet other people going through the same things. You can access it any time of day or night. Share your experiences, ask questions, or just read through people's posts at macmillan.org.uk/ community

The Macmillan healthcare team

Our nurses, doctors and other health and social care professionals give expert care and support to individuals and their families. Call us or ask your GP, consultant, district nurse or hospital ward sister if there are any Macmillan professionals near you.

Book reviews

Our volunteers review many books about cancer. These include people's stories of living with cancer, and books for children. Visit publications. macmillan.org.uk and search 'book reviews'.

'Everyone is so supportive on the Online Community, they know exactly what you're going through. It can be fun too. It's not all just chats about cancer.'

Mal

Help with money worries

Having cancer can bring extra costs such as hospital parking, travel fares and higher heating bills. If you've been affected in this way, we can help.

Financial guidance

Our financial team can give you guidance on mortgages, pensions, insurance, borrowing and savings.

Help accessing benefits

Our benefits advisers can offer advice and information on benefits, tax credits, grants and loans. They can help you work out what financial help you could be entitled to. They can also help you complete your forms and apply for benefits.

Macmillan Grants

Macmillan offers one-off payments to people with cancer. A grant can be for anything from heating bills or extra clothing to a much-needed break.

Call us on **0808 808 00 00** to speak to a financial guide or benefits adviser, or to find out more about Macmillan Grants.

We can also tell you about benefits advisers in your area. Visit macmillan.org.uk/ **financialsupport** to find out more about how we can help you with your finances.

Help with work and cancer

Whether you're an employee, a carer, an employer or are self-employed, we can provide support and information to help you manage cancer at work. Visit macmillan.org.uk/work

Work support

Our dedicated team of work support advisers can help you understand your rights at work. Call us on 0808 808 00 00 to speak to a work support adviser (Monday to Friday, 8am to 6pm).

Macmillan Organiser

This includes a records book to write down information such as appointments, medications and contact details. You can also download the app on IOS or Android.

Other useful organisations

There are lots of other organisations that can give you information or support.

Work and employment

Access to Work **Tel** 0800 121 7479 **Textphone** 0800 121 7579 www.gov.uk/access-to-work Provides advice and practical support to people with long-term health conditions and their employers. This helps pay for practical support so you can do your job.

Access to Work (NI) www.nidirect.gov.uk/ articles/access-workpractical-help-work Gives support and advice to employees with disabilities and their employers. To apply for assistance through this programme, speak to an adviser at your local Jobs and Benefits Office.

Advisory, Conciliation and **Arbitration Service (Acas)** Helpline 0300 123 1100 (Mon to Fri, 8am to 6pm) www.acas.org.uk Gives advice to employees and employers to help improve working life and relations. Offers information, advice and training.

Citizens Advice

Provides advice on a variety of issues including financial, legal, housing and employment issues. Use their online webchat, or find details for your local office in the phone book or by contacting:

England

Helpline 0344 411 1444 www.citizensadvice.org.uk

Scotland Helpline 0808 800 9060

www.cas.orq.uk

Wales

Helpline 0344 477 2020 www.citizensadvice.org.uk/ wales

Northern Ireland www.citizensadvice.co.uk

Equality Advisory Support Service (EASS) Tel 0808 800 0082 **Textphone** 0808 800 0084 (Mon to Fri, 9am to 7pm, Sat, 10am to 2pm)

www.equalityadvisory service.com

Promotes equality and provides information to people about their rights in England, Scotland and Wales.

Equality Commission for Northern Ireland (ECNI) Tel 028 9050 0600 **Email**

information@equalityni.org www.equalityni.org

Aims to advance equality, promote equality of opportunity, encourage good relations and challenge discrimination.

Labour Relations Agency Tel 0330 055 5300

(Mon to Fri, 9am to 5pm)

Email info@lra.org.uk www.lra.org.uk

Responsible for promoting the improvement of employment relations in Northern Ireland. Provides advice and support to both employees and employers, and helps resolve disputes.

The Law Society www.lawsociety.org.uk

Can provide details of solicitors in England and Wales.

The Law Society of Northern Ireland www.lawsoc-ni.org

Can provide details of solicitors in Northern Ireland

The Law Society of Scotland www.lawscot.org.uk

Can provide details of solicitors in Scotland.

The Trades Union Congress (TUC) **Tel** 020 7636 4030 www.tuc.org.uk Organisation that campaigns for trade union values. Provides information about trade unions and how to join one.

WorkSmart www.worksmart.org.uk

This website provides information on employment rights, health at work and financial matters. It is part of the Trades Union Congress (TUC).

General cancer support organisations

Cancer Black Care

Tel 0208 961 4151 www.cancerblackcare.org.uk Offers UK-wide information and support for people from Black and ethnic minority communities who have cancer. Also supports their friends, carers and families.

Cancer Focus Northern Ireland Helpline 0800 783 3339 (Mon to Fri, 9am to 1pm) **Email** nurseline@cancerfocusni.org www.cancerfocusni.org

Offers a variety of services to people affected by cancer in Northern Ireland.

Cancer Research UK Helpline 0808 800 4040 (Mon to Fri, 9am to 5pm) www.cancerresearchuk.org A UK-wide organisation that

has patient information on all types of cancer. Also has a clinical trials database.

Cancer Support Scotland Tel 0800 652 4531 (Mon to Fri, 9am to 5pm) **Email**

info@cancersupportscotland.org www.cancersupportscotland. orq

Runs cancer support groups throughout Scotland, Also offers free complementary therapies and counselling to anyone affected by cancer.

Macmillan Cancer Voices www.macmillan.org.uk/ cancervoices

A UK-wide network that enables people who have or have had cancer, and those close to them such as family and carers, to speak out about their experience of cancer.

Maggie's Centres **Tel** 0300 123 1801 **Email**

enquiries@maggiescentres.org www.maggiescentres.org Has a network of centres in many locations throughout the UK. Provides free information about cancer and financial benefits. Also offers emotional and social support to people with cancer, their family, and friends.

Penny Brohn UK Helpline 0303 3000 118 (Mon to Fri, 9.30am to 5pm) Email

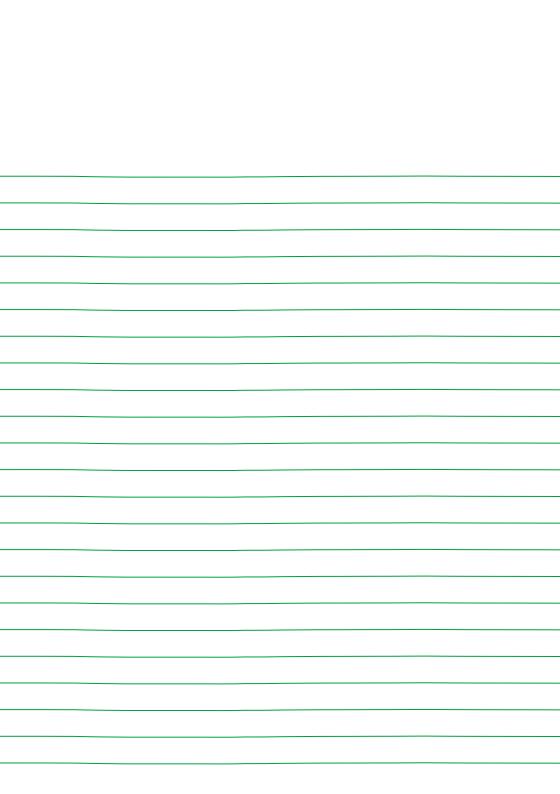
helpline@pennybrohn.org.uk www.pennybrohn.org.uk Offers physical, emotional and spiritual support across the UK, using complementary therapies and self-help techniques.

Tenovus Helpline 0808 808 1010 (Daily, 8am to 8pm) **Fmail**

info@tenovuscancercare.org.uk www.tenovuscancercare.org. uk

Aims to help everyone in the UK get equal access to cancer treatment and support. Funds research and provides support such as mobile cancer support units, a free helpline, benefits advice and an online 'Ask the nurse' service.

YOUR NOTES AND QUESTIONS



Disclaimer

We make every effort to ensure that the information we provide is accurate and up to date but it should not be relied upon as a substitute for specialist professional advice tailored to your situation. So far as is permitted by law, Macmillan does not accept liability in relation to the use of any information contained in this publication, or thirdparty information or websites included or referred to in it.

Thanks

This booklet has been written, revised and edited by Macmillan Cancer Support's Cancer Information Development team. It has been approved by the Working through Cancer Programme team at Macmillan.

With thanks to: Louise Bain, Solicitor, The Glasgow Law Practice; Louise Dinsdale, Macmillan Financial Guide; Sarah Gregory, Macmillan Senior Policy Adviser – Social Care and Carers; Polly Guest, Macmillan Work Support Adviser; Laura Lee, Macmillan Financial Guide; Sharon McArdle, Employment Law Adviser, Mark Mason Employment Law; Fiona McLellan, Partner, Hempsons; Ross Milvenan, Associate, Digby Brown Solicitors; and Kathryn Phillips, Macmillan Welfare Rights Technical Lead.

Thanks also to the people affected by cancer who reviewed this edition, and those who shared their stories.

We welcome feedback on our information. If you have any, please contact cancerinformationteam@macmillan.org.uk

Sources

We have listed a sample of the sources used in the booklet below. If you would like more information about the sources we use, please contact us at cancerinformationteam@macmillan.org.uk

equalityhumanrights.com (accessed September 2018). gov.uk (accessed September 2018). nidirect.gov.uk (accessed September 2018).

Can you do something to help?

We hope this booklet has been useful to you. It's just one of our many publications that are available free to anyone affected by cancer. They're produced by our cancer information specialists who, along with our nurses, benefits advisers, campaigners and volunteers, are part of the Macmillan team. When people are facing the toughest fight of their lives, we're there to support them every step of the way.

We want to make sure no one has to go through cancer alone, so we need more people to help us. When the time is right for you, here are some ways in which you can become a part of our team.



Share your cancer experience

Support people living with cancer by telling your story, online, in the media or face to face.

Campaign for change

We need your help to make sure everyone gets the right support. Take an action, big or small, for better cancer care.

Help someone in your community

A lift to an appointment. Help with the shopping.
Or just a cup of tea and a chat. Could you lend a hand?

Raise money

Whatever you like doing you can raise money to help. Take part in one of our events or create your own.

Give money

Big or small, every penny helps. To make a one-off donation see over.

Call us to find out more 0300 1000 200 macmillan.org.uk/getinvolved

Please fill in your personal details Mr/Mrs/Miss/Other Name Surname Address Postcode Phone Email Please accept my gift of £ (Please delete as appropriate) I enclose a cheque / postal order / Charity Voucher made payable to Macmillan Cancer Support OR debit my: Visa / MasterCard / CAF Charity Card / Switch / Maestro Card number Valid from Expiry date

Don't let the taxman keep your money

Do you pay tax? If so, your gift will be worth 25% more to us – at no extra cost to you. All you have to do is tick the box below, and the tax office will give 25p for every pound you give.

I am a UK tax payer and I would like Macmillan Cancer Support to treat all donations I make or have made to Macmillan Cancer Support in the last 4 years as Gift Aid donations, until I notify you otherwise.

I understand that if I pay less Income Tax and/or Capital Gains Tax than the amount of Gift Aid claimed on all my donations in that tax year it is my responsibility to pay any difference. I understand Macmillan Cancer Support will reclaim 25p of tax on every £1 that I give.

Macmillan Cancer Support and our trading companies would like to hold your details in order to contact you about our fundraising, campaigning and services for people affected by cancer. If you would prefer us not to use your details in this way please tick this box.

In order to carry out our work we may need to pass your details to agents or partners who act on our behalf.

Registered with FUNDRAISING

If you'd rather donate online go to macmillan.org.uk/donate

Security number

Issue no

Signature

Date

Please cut out this form and return it in an envelope (no stamp required) to: Supporter Donations, Macmillan Cancer Support, FREEPOST LON15851, 89 Albert Embankment, London SE1 7UQ

REGULATOR

This booklet is for people affected by cancer, including carers, who would like to know more about their rights at work.

Legislation protects you from being treated unfairly at work because of cancer. This booklet explains what it means to be discriminated against because you have cancer, and how the law protects you.

We're here to help everyone with cancer live life as fully as they can, providing physical, financial and emotional support. So whatever cancer throws your way, we're right there with you. For information, support or just someone to talk to, call 0808 808 00 00 or visit macmillan.org.uk

Would you prefer to speak to us in another language? Interpreters are available. Please tell us in English the language you would like to use. Are you deaf or hard of hearing? Call us using NGT (Text Relay) on 18001 0808 808 00 00. or use the NGT Lite app.

Need information in different languages or formats? We produce information in audio, eBooks, easy read, Braille, large print and translations. To order these, visit macmillan.org.uk/otherformats or call our support line.



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