

# HIV

The Equality Act 2010 makes it illegal to discriminate against someone living with HIV in the workplace. Yet despite these protections, people are still facing discrimination from employers and colleagues and some even lose their jobs because of their HIV status.

The Equality Act 2010 is applicable from the moment an individual is diagnosed with HIV, and means an employer must make any reasonable adjustments requested to remove barriers for those living with HIV. Research by the National AIDS Trust showed that in the majority of cases, HIV had no impact on people's working life, but a small proportion of people did identify some reasonable adjustments that an employer could make to assist them at work.

These include:

- time off to attend hospital and clinic appointments
  - some flexibility in working hours
- being able to work at home occasionally.

An employer is only obliged to make such changes if they know, or 'could be reasonably expected to know' that an employee has a disability. Therefore, if you need any adjustments making due to your HIV status, you will need to let your employer know about it.

It is common for people with HIV to be reluctant to tell their boss about their condition due to fears about confidentiality. However, a business also has obligations under the Data Protection Act 1998, which regulates how personal information is processed and protects all personal sensitive data disclosed by a job applicant or employee, including information about physical or mental health conditions.

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The Data Protection Act specifies that written consent is needed for personal sensitive information to be passed on and your employer should have procedures in place to ensure that personal information about employees is properly handled.

## **Making a claim**

If your employer does not make any reasonable adjustments required that you have requested once notified of your HIV status, your work may suffer. In some circumstances you may find that you are dismissed on the basis that you are unable to carry out the role. If this is the case then you may be entitled to claim against your employer for disability discrimination.

There is no minimum length of employment required to bring a claim at the Employment Tribunal, but it is important to lodge your claim with ACAS within 3 months of the act of discrimination occurring. It is therefore essential that you take legal advice on your situation at an early stage and as soon as possible.

**Contact Ashley Hunt & Carrie-Ann Randall on 01858 445 480 or Vaishali Thakerar & Alex Reid on 0116 212 1000 if you have been discriminated against because of a HIV status.**