



## See Me in Work Applying for a Job

### Top 10 things you should know about your rights when applying for a job

- 1.** The work cycle includes advertising for a job, recruitment, promotion, being at work, being off sick, opportunities for training and development, grievances, discipline, when the organisation is making changes or considering redundancies, leaving voluntarily, through retirement, redundancy or dismissal, and being given suitable references after leaving work.
- 2.** Employees are protected from discrimination from the first day of employment. An employer is not allowed to discriminate against a job applicant or an employee because they have or are perceived to have a “protected characteristic”, because of their association with someone who has a disability or because of something arising from disability.
- 3.** Mental health problems may be a disability. A person has a disability if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day to day activities.
- 4.** Employers generally cannot ask questions about a job applicant’s health, sickness absence from work or disability before they make a job offer except for some very specific purposes. They can ask these questions if they make a job offer but they are still not allowed to discriminate.

**5.** Applicants and employees do not have to disclose if they have mental health problems or if they have a disability – although it is more helpful for an employer when considering reasonable adjustments. Information that is disclosed should be kept confidential by the employer though they can tell people who need to know about it.

**6.** Employees and job applicants can ask employers for information. For example, they could ask how an employer puts into practice any equality statements or policies, or ask what criteria are being tested by a practical exercise.

**7.** Employers have to consider and make reasonable adjustments for disabled job applicants and employees throughout the work cycle. (See below for examples). Good employers will consult employees. Reasonable adjustments can be inexpensive and easy to make.

Even if someone is not entitled to an adjustment and they experience mental health problems, it's worth asking if adjustments could be made.

**8.** The law allows a disabled person to be treated more favourably than a person who doesn't have that disability. For example, an employer could decide to make a car parking space available permanently to an employee who is disabled and who only needs to use the car from time to time.

**9.** Employers can dismiss an employee whether or not they have a disability on the usual ground such as conduct (not doing what is required e.g. not following reasonable instructions, not following policy, misconduct) or capability (i.e. not being able to fulfil the requirements of the job) or by reason of redundancy. It is more likely to be discrimination and/or an unfair dismissal if reasonable adjustments have not been considered or made.

**10.** If you think you have been discriminated against, or unfairly dismissed, you have legal protection through employment tribunals. There are special rules about deadlines, using internal grievance processes and using ACAS, so get advice as soon as possible.

