

[Your address]

[your email]

[your telephone number]

[Chief Executive / Managing Director]

[Service provider's address]

[Date]

Dear Sir / Madam

Equality Act 2010 Letter Before Claim – Disability Discrimination arising from your company's reaction to me being unable to wear a face covering

Date of incident:

Location of incident:

This is a pre-action letter for disability discrimination.

I have the following condition(s):

[list of medical conditions]

These have a substantial and long term impact on my life and so I have the protected characteristic of disability as defined in Section 6 of the Equality Act 2010.

My condition means I am unable to wear a face covering. The legislature has approved face coverings exemptions as otherwise disabled people unable to wear face coverings would be excluded from society. You cannot make up your own law requiring 100% face coverings, you must comply with the law requiring most people to wear a face covering but not those who are exempt. So you must respect my right to use your service as a disabled person unable to wear a face covering on the same terms as those people who can wear a face covering.

[Outline here more of what happened – include quotes from staff and how it made you feel / any damage to your health – make sure you give dates and times, the location of the incident(s) and, if you know the identity of any perpetrators, also include them here, although please note your claim is against the service provider, not any one individual working for the service provider].

Your attention is drawn to the press release of 24 July 2020 from the Government which references more detailed Guidance you are encouraged to familiarise yourself with:

<https://www.gov.uk/government/news/disabled-people-exempt-from-wearing-face-coverings-under-new-government-guidance>

I was following the rules when entering your premises unmasked. I am entitled not to wear a face covering to protect my health and well-being and prevent severe distress and damage to my health being caused to me. The response of your staff outlined above was, however, outside the rules and unlawful as explained below.

As a service provider you must not discriminate against me.

Section 29 Provision of services, etc.

(1) A person (a “service-provider”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.

(2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—

(a) as to the terms on which A provides the service to B;

(b) by terminating the provision of the service to B;

(c) by subjecting B to any other detriment.

Section 13 provides that (1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

And Section 15 provides me with protection against discrimination arising in consequence of my disability. In order to defend my section 15 claim you would likely have to show your actions were a proportionate means of achieving a legitimate aim in the context of the right given to me to enter your premises as a disabled person with a reasonable excuse for not wearing a face covering. The damage inflicted on me as outlined above was real and quantifiable. I was not attempting to enter your premises infected with COVID-19. I am aware of, and follow, the rules and restrictions and do not agree with your implied stance that I was putting any other person at risk. In your response please lay out your basis for believing I was a risk such that it was proportionate to treat me in the way described above.

There is a special rule for discrimination cases: if I can prove some of the facts, you will then have to prove there was no discrimination. This is sometimes called ‘shifting the burden of proof’. It is set out in section 136 of the Equality Act 2010:

Section 136 Burden of proof

(1) This section applies to any proceedings relating to a contravention of this Act.

(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.

(3) But subsection (2) does not apply if A shows that A did not contravene the provision.

This means as I am demonstrating to you that my basic civil rights were infringed, you must prove your actions were not discriminatory. You must therefore provide a factual and legal basis for the actions you took against me. Please provide it in your response.

The disability discrimination you perpetrated against me is covered by the *Vento Scale* as outlined in the Equality and Human Rights Commission Guidance regarding the value of discrimination claims. You can find it here:

<https://www.equalityhumanrights.com/sites/default/files/quantification-of-claims-guidance.pdf> .

The Commission indicates the lower band of £900 to £8,600 is for one off cases. However, the lower band was revised to £900 - £9,000 in the most recent year for which figures were amended. In considering the level of compensation that applies the Commission states the following,

“While the court will assess the award of damages for injury to feelings in an objective way, the perception and the individual reaction of the claimant will be an important factor for the court to consider. The more upsetting the conduct is to the individual, the more seriously the discrimination is likely to be viewed by the court, and the higher the award for injury to feelings. Where a one-off act of discrimination is particularly humiliating or serious and the victim suffers serious consequences as a result, an award in the higher bands could be justified...”

And,

“Where the discrimination happens in a public place in front of a number of members of the public, and so is more likely to be considered as humiliating...”

As well as being committed in public, the discrimination committed caused me substantial distress as outlined above.

I therefore seek £XXXX to settle this case along with specific information regarding how you will ensure that no further incidents can occur.

I trust you will take this opportunity to remedy matters.

You are reminded that under the Civil Procedure Rules you are required to engage in constructive communication to minimise any possible need for assistance from the court.

I look forward to hearing from you with proposals for settlement within the next 14 days.

Yours faithfully,

[your signature]

[your name]