

Template letter – disability discrimination – face coverings

[Your address]

[your email]

[your telephone number]

[Compliance Manager]
[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

This is a pre-action letter for disability discrimination.

I have the following condition(s):

[list of medical conditions]

These have a substantial 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.

[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].

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. The response of your staff outlined above was, however, outside the rules and, more seriously, unlawful as explained below.

As a service provider you must not discriminate against me.

Section 29 Provision of services, etc.
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(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.

Additionally, under Section 13 (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 extra protection against discrimination arising in consequence of my disability.

And there is also 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.

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 for the financial year we are now in. 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.

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 County Court.

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

Yours faithfully,

[your signature]

[your name]