

possibility of early ill health retirement. If you are part of a pension scheme, or if you have private health insurance you may be able to make a claim.

- If your disability or health condition creates a substantial risk to yourself or others, you can be dismissed on health and safety grounds. However, prior to dismissal your employer will have to show that they considered all other possible reasonable adjustments including redeployment.

## ● Further details

### Disability Rights Commission (DRC) Helpline

Free advice if you feel you have been treated unfairly.

Open 08:00 to 20:00, Monday to Friday  
See back page of this leaflet for details.

See also on the DRC website ([www.drc-gb.org/knowyourrights/employment.asp](http://www.drc-gb.org/knowyourrights/employment.asp))  
'Employment, health and disability – Getting in, staying in and getting on'.

### Job centre or Jobcentre Plus

For your nearest job centre look in the Yellow Pages under employment agencies, careers advice, training service or online at [www.jobcentreplus.gov.uk](http://www.jobcentreplus.gov.uk)

EMP9

October 2004

If you require this publication in an alternative format and/or language please contact the Helpline to discuss your needs. It is also available on the DRC website: [www.drc-gb.org](http://www.drc-gb.org)

The DRC Language Line service offers an interpretation facility providing information in community languages and is available on the DRC Helpline telephone number 08457 622 633. You can email the DRC Helpline from our website: [www.drc-gb.org](http://www.drc-gb.org)

### Other leaflets currently available

Who has rights under the Disability Discrimination Act 1995 (DDA)?  
What are reasonable adjustments?  
Health and safety  
Pensions  
Sick leave, sick pay and medical appointments  
Redundancy  
Getting into work – my rights

☎ **Telephone** 08457 622 633  
☎ **Textphone** 08457 622 644  
**Fax** 08457 778 878  
**Website** [www.drc-gb.org](http://www.drc-gb.org)  
✉ **Post** DRC Helpline  
FREEPOST MID 02164  
Stratford upon Avon  
CV37 9BR

# Discipline and dismissal

# 4

A series of leaflets providing practical advice and information on getting and keeping employment



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**The Disability Discrimination Act 1995 (DDA) makes it unlawful for an employer to discriminate against you because of your disability or long-term health condition.**

● **Can the DDA help me if I am faced with disciplinary action?**

It is unlawful for your employer to take disciplinary action against you for poor performance or behaviour if your disability is in any way relevant. If your disability is not relevant, and your behaviour would not have been different if reasonable adjustments had been made, then disciplinary action is not likely to be discriminatory.

If you feel that the disciplinary action is unfair, and that with some or more adjustments the issues would not have arisen, you should:

- ask to discuss this with your manager
- make sure that they are fully aware of your disability or health condition and what might have caused the problems
- suggest they call in expert advice through a disability employment adviser or Access to Work, a scheme developed to help you and your employer work out what the issues and likely solutions are. Contact your local job centre (see over) for further information.

If it becomes clear that what caused the disciplinary action could have been prevented through an adjustment, the disciplinary process should be suspended immediately.

If your employer does not see your point of view, the Disability Rights Commission (DRC) Helpline (see over) may be able to advise you.

● **Does my employer have to make reasonable adjustments during the disciplinary process?**

Your employer has to treat you fairly and make reasonable adjustments, such as:

- giving you time to prepare for the proceedings
- making all communications available in a format accessible to you
- keeping you informed of the process and why it is happening
- providing a reader, qualified sign language interpreter, or advocate, if not having them would put you at a disadvantage.

● **When is it lawful for my employer to dismiss me?**

If no further reasonable adjustments can be made for you to perform better or behave in a more appropriate way, your employer has to consider moving you to a more suitable job as an alternative to dismissal. But, if redeployment is impossible because the business is small, for instance, dismissal is likely to be considered fair.

There are a few other circumstances in which your employer can terminate your contract:

- If you have been absent for a long time and there is no effective reasonable adjustment, or you are unlikely to return to work in the foreseeable future. It may however be appropriate to discuss the