

notice of EXEMPTION from requirement to wear a face covering

- To controllers and owners of premises
- To individuals working at those premises

The Starting Point to avoid dispute

1. I have a reasonable excuse not to wear a face covering

All UK regulations and government guidance imposing restrictions in response to Coronavirus have provided a “reasonable excuse” exemption. Although ‘severe distress’ is given as one example of an acute immediate reaction, that is not necessary. Other examples explicitly include:

to *avoid harm or injury, or the risk of harm or injury*

Harm or injury, or risk of it, may be very less obvious to an observer. There is particular risk for people already suffering from, for example, anxiety, generalised anxiety disorder, paranoia and depression among others mental impairments. The risk is also increased to those with physical impairments, such as asthma and many other respiratory conditions, many of which will not ordinarily be apparent to others.

2. The government advice is not to challenge people to wear a face covering

This is for GOOD REASON. If you do so, you and your employees may be PERSONALLY LIABLE for

AN OFFENCE liable on summary conviction to pay a fine of up to £5,000 - section 112 (Aiding contraventions) of the Equality Act 2010

AN ACT OF DISABILITY DISCRIMINATION and be ordered to pay to any individual who suffers **injury to feelings compensation between £900 and £9,000** - section 119 (Remedies) of the Equality Act 2010

3. You cannot challenge me about my decision not to wear a face covering

You are not permitted to ask for a medical certificate.

The only people who are entitled to ask about whether or why someone has a reasonable excuse are enforcement officers i.e.

- police officers
- police community support officers
- persons designated by local authorities or by the Secretary of State for the purpose of enforcement

If you are not such an enforcement officer, you will be likely to commit disability discrimination and harassment and be ordered to pay compensation.

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Information about disability discrimination

Under section 29 of the Equality Act 2010, a service provider must not discriminate against, harass or victimise a person because of, or for a reason associated with, a disability.

Your PERSONAL LIABILITY on summary conviction to pay a fine if requiring me to wear a face covering

Under section 112 (Aiding contraventions) of the Equality Act 2010, if

- having been informed by me that, by reason of a disability, requiring me or another person to wear a face covering is a basic contravention of the Equality Act 2010;
- **you make a false or misleading statement to the effect that requiring me or that other person to wear a face covering does not contravene the Equality Act 2010;** and
- in view of all the information you have, you are considered knowingly or recklessly to have made that statement

then you will personally be committing an offence and liable on summary conviction to pay a fine of up to **£5,000**.

Your PERSONAL LIABILITY to compensate me for injury to my feelings

In addition, by section 119 (Remedies) of the Equality Act 2010 the Courts may order you to pay damages and compensation for injured feelings as well as for any injury or loss. In relation to compensation for injury to feelings, judicial guidelines are that even the lowest awards will be in the range of **£900 to £9,000**.

Your duties and obligations

It is obvious that your customers will include persons with a 'disability' in the meaning of section 6(1) of the Equality Act 2010 who as a result of which are put at a substantial disadvantage arising from the requirement to wear a face covering. (Section 212 of that Act defines 'substantial' as meaning "more than minor or trivial".) Whether or not I have such a 'disability', you are subject to the following legal obligations.

You have a duty to make adjustments

By section 20 (Duty to make adjustments), where a provision, criterion or practice puts a disabled person at a substantial disadvantage, a service provider has a duty to take such steps as it is reasonable to have to take to avoid that disadvantage.

In this instance, the practice is asking or requiring people to wear a face covering. The obvious step which it is reasonable to take is to refrain from asking or requiring such a disabled person to wear a face covering.

You are required to control the behaviour of your other customers

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By section 20 (Duty to make adjustments), if your practice put a person with a disability at a substantial disadvantage, you have a duty to take all such steps as it is reasonable to have to take to avoid that disadvantage.

In this case, such a practice would be to ignore, condone or encourage the conduct of your other customers in harassing or challenging me to wear a face covering when they or you are on notice that I may be exempted from doing so by reason of disability. Reasonable steps required may include, and which should be **place from 24th July:**

- adopting a policy requiring customers not to challenge others not wearing a face covering to do so and to treat them with the same respect that they would show to others who wear a face covering
- displaying prominent and clear signage giving notice of that policy
- enforcing the policy by reasonable intervention when any breach is brought to your attention
- where necessary, removing from your premises and refusing to serve customers who do not observe the policy

Further, by siding with such customers this may also constitute a breach of section 15 of the Equalities Act 2010 (Discrimination arising from disability and/or section 19 (Indirect discrimination) and/or section 26 (Harassment). It would also be distressing and put disabled people at a substantial disadvantage if they were required to defend themselves by disclosing details of their disability.

You must support people who stand up for others with a disability

The Equality Act 2010 prohibits unfavourable treatment of *anyone* because of, or for a reason related to, disability. The disability does not have to be theirs. If someone stands up for the rights of a person with a disability not to wear a face covering and that someone is then subject to harassment or other unfavourable treatment, then they will be entitled to remedy and to compensation under the Act.

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Warning Stage 2

- **To controllers and owners of premises**
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Your demand for details of my health condition

I object to disclosing details of my health condition(s) because this is an unjustified intrusion into my privacy and also a violation of my dignity.

Notwithstanding my objection, if to be provided with your services you still require me to disclose further details, I will consider that to be

- **a breach of my right to privacy**
- **an act of disability discrimination.**

If I feel obliged to comply with your requirement to disclose further details, I may do so verbally and/or may choose to do so by providing you with further information in writing.

I may or may not choose to provide you with personal information in response to your demand that I wear a face covering.

If I provide you with any personal and sensitive data concerning me or any other person in response to your requirement for people to wear a face covering, you are not permitted to record or make or retain any copies of such data or disclose such data to anyone else without my express permission.

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Stage 3

- **To the reader of this notice**

Disclosure of disability

My rights and your legal duties and obligations

I have given you notice separately of my reasonable excuse exemption under the Coronavirus regulations. The exemption in the Coronavirus regulations is not limited to avoidance of severe distress or only protecting those with long-term health conditions..

Having a ‘disability’ in the meaning of the Equality Act 2010 is *not* required for that exemption to apply. It is, therefore, not necessary for you to have any further information in relation to my health condition

Nevertheless, I now disclose that I do suffer from a mental or physical impairment that is a ‘disability’ in the meaning of section 6(1) of the Equality Act 2010 and as a result of which I am at a substantial disadvantage arising from requirements to wear face coverings. (Section 212 of that Act defines ‘substantial’ as meaning “more than minor or trivial”.)

As a result of the above, I am exempted from having to wear a face covering under the provisions of the Equality Act 2010.

I have offered for inspection a copy of this document which I carry with me in anticipation of being challenged about not wearing a face covering.

Your demand for details of my health condition

By section 119(5) and (6) of the Equality Act 2010, whether or not you have good intention towards me or any of your staff, customers, the government or to the public generally in requiring the wearing of face coverings, or whether you may mistakenly imagine you are required by law to insist I wear a face covering, is not relevant.

Your intention, good or bad, is no excuse for, or defence to a complaint of, disability discrimination.

I consider your demand for details of my health condition to be an act of disability discrimination.

Retention of relevant documents

I hereby give you notice of a dispute and my intention to pursue legal claim for compensation in respect of your requirement for the wearing of a face covering. Please note that you have a legal obligation to retain and not to destroy or alter any records that may be relevant to this dispute. This includes any video or CCTV recordings which show my interaction with you or any of your staff or customers where the wearing of a face covering appears likely to be subject of that interaction.

My details:

Name:

Date:

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Stage 4

- **To the reader of this notice**

Disclosure of details of my health condition

In relation to what is my health condition(s), I will explain it is:

In relation to the relevant symptoms or effects of my health condition(s), I will explain:

I know there is a significant risk that I will suffer such symptoms or effects if required to wear a face covering. The mere suffering of those symptoms or effects amounts to substantial disadvantage(s) in addition to the impact on my ability to seek services from you and others.

Retention of relevant documents

I hereby give you notice of a dispute and my intention to pursue legal claim for compensation in respect of your requirement for the wearing of a face covering. Please note that you have a legal obligation to retain and not to destroy or alter any records that may be relevant to this dispute. This includes any video or CCTV recordings which show my interaction with you or any of your staff or customers where the wearing of a face covering appears likely to be subject of that interaction.

My details:

Name: Date:

Email address:

Address:

Contact telephone number: