

CONTENTS

Acknowledgements viii
Table of Cases ix
Table of Legislation xii
List of Abbreviations xv

1 Introduction 1

1.1 About This Book 2

1.2 Key Claims 5

1.3 Scope and Limitations 6

1.4 Terminology 8

2 Law’s Response to Disfigurement Inequality 10

2.1 Justifying a Legal Response 10

2.2 Law’s Response 15

2.2.1 Equality Act 2010 15

2.2.2 Disability in the CRPD 19

2.2.3 Disability in the Decisions of the ECtHR 23

2.2.4 Disability in EU Law 24

2.3 Summary 26

3 Law’s Limited Ambitions 27

3.1 Constructing an Evaluative Framework 34

3.2 Methodological Implications of the Framework 38

3.3 Summary 39

4 The Lived Experience of Visible Difference 41

4.1 Psychological Impact 41

4.2 Meeting Others 44

4.2.1 At Work 46

4.3 All in Your Head? 49

4.3.1 Seeing You, Knowing You 52

vi	CONTENTS
	4.3.2 Factors Affecting the Social Consequences of Disfigurement 54
	4.3.3 Real Life and the Law 55
	4.4 Summary 61
5	Disfigurement Equality at Work: Employer Perspectives 63
	5.1 Recruitment 64
	5.2 Support and Adjustments 68
	5.3 HR Practice and the Law 73
	5.4 Summary 75
6	Defining Disfigurement 77
	6.1 Disfigurement: An Appearance Disability 77
	6.2 The Relationship between Disfigurement and Disability 81
	6.3 The Relationship between Disfigurement and Appearance 83
	6.4 The Relationship between Disability and Appearance 91
	6.5 Can Other Protected Characteristics Fill the Gaps? 95
	6.6 Summary 100
7	Severity and Complexity 101
	7.1 Determining Severity 101
	7.1.1 The Bodily Location of Disfigurement 103
	7.1.2 Progressive Conditions 105
	7.2 Why Have a Severity Threshold? 107
	7.3 The Legal Dichotomy of Complex Conditions 109
	7.4 Mitigating the Act's Limitations: Perceptive Discrimination 111
	7.5 Summary 114
8	Law and Social Change: Are We Expecting Too Much? 115
	8.1 How Contentious Is the Law? 116
	8.2 What Aspect of Social Change Is Targeted? 118
	8.3 Does the Law Have 'Bottom Up' Ownership? 120
	8.4 Has the Law Been Publicised? 121
	8.5 What Compliance Mechanisms Does the Law Use? 122
	8.6 Summary 125
9	Alternative Approaches in Law and Policy 127
	9.1 Changing Attitudes, Perceived Social Norms and Behaviours 127
	9.1.1 Regulatory Interventions Focused on Contact and Visibility 128
	9.1.2 Reform Focused on Education 133
	9.1.3 Reform of Advertising 134

CONTENTS vii

9.1.4	Reforms Designed to Motivate Employers	137
9.1.5	Law Reform of AI in HR Processes	141
9.1.6	Reform at Wider Institutional Level	142
9.2	Creating an Effective Remedial Mechanism	144
9.2.1	Reforms to Improve Claim Success Rates	145
9.2.2	Reforms to Increase Enforcement	152
9.3	Summary	155
10	Beyond Disfigurement	157
10.1	Is a Protected Characteristic of Appearance Justified in Principle?	157
10.2	Is a Protected Characteristic of Appearance Viable in Practice?	167
10.2.1	The Problem of Pretty	170
10.3	Would a Protected Characteristic of Appearance Be Enforced?	174
10.4	Summary	176
11	Conclusion	178
<i>Appendix 1 Model of Good Practice</i>		184
<i>Appendix 2 Empirical Study Information</i>		193
<i>References</i>		196
<i>Index</i>		217