



A guide to the Equality Act 2010

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Please help us to continue to provide free information to people affected by brain injury by making a donation at www.headway.org.uk/donate. Thank you.

Introduction

The Equality Act came into force in October 2010, and brought together a number of different legislations on equality and individual rights into one single act. It ensures that employees with a disability are protected within the workplace by placing a legal duty on employers to support employees with a disability by making 'reasonable adaptations' to the workplace or work role.

The act covers England, Wales and Scotland; Northern Ireland is still covered by the Disability Discrimination Act 1995 (DDA 1995). For more information on the DDA 1995, refer to the *Disability discrimination at work* section of the following website: www.nidirect.gov.uk/articles/employment-support-information.

This factsheet provides an overview of the Equality Act 2010 and its relevance to brain injury survivors who are returning to or have returned to work, and their employers.

Being classified as disabled under the act

The Equality Act 2010 replaced several former pieces of legislation, including the Disability Discrimination Act 2005 (DDA 2005). The DDA defines disability as '*a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities*'. If you can show that you come within this definition you will have the protection of the act.

For the purposes of the act:

- Substantial means more than minor or trivial
- Long-term means that the effect of the impairment has lasted or is likely to last for at least 12 months, or for the rest of the person's life
- Normal day-to-day activities include everyday things like eating, washing, walking and going shopping



The new act now protects the following people:

- Those who used to have a disability
- Those who are associated with someone with a disability (e.g. carers)
- Those who are wrongly perceived as being disabled

How the act applies to brain injury

Only the courts can say if a particular individual is defined as disabled under the legislation, but the aim of the act is to be as broad as possible. People with a severe brain injury who have long-term disabilities as a result should be covered by the Equality Act. As the impairment must last 12 months or more, it may be more difficult for people with a minor head injury to prove that the Equality Act applies to them. However, that doesn't mean that they should be discriminated against. Furthermore, the law can still protect people if they have recovered from a disability that previously affected them.

You may need to prove that you are classified as disabled under the Equality Act in order to be protected by it. You can do this by showing that your brain injury has resulted in a physical or mental (emotional or cognitive) impairment, and that this has an impact on your day-to-day life, including your work life. For example, if you are struggling to write, type, read, concentrate or move around the work environment because of your brain injury, you might be classified as disabled under the act.

Further reading

Further detailed information on the Equality Act is available on the UK government website from the following link: www.gov.uk/guidance/equality-act-2010-guidance.

The Equality and Human Rights Commission website also has detailed information on rights within the workplace and disability. To browse through this information, visit www.equalityhumanrights.com/en/advice-and-guidance.

You can access the full Equality Act from the following link: www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf.

More information on other aspects of returning to work is available in the following Headway factsheets:

- Adaptations to the workplace - a guide for employers
- Financial support when returning to work
- Returning to work after brain injury
- Returning to education after brain injury



factsheet

- Self-employment after brain injury
- Voluntary work after brain injury

To discuss any issues raised in this factsheet, or to find details of our local groups and branches, please contact the Headway helpline free of charge on 0808 800 2244 (Monday - Friday, 9am-5pm) or by email at helpline@headway.org.uk.

You can also find more information and contact details of groups and branches on our website at www.headway.org.uk/supporting-you.

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Website: www.headway.org.uk

