

The Equality Act - a guide for brain injury survivors



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Introduction

The Equality Act came into force in 2010 and brought together a number of different legislations on equality and individual rights. It protects the rights of people with a disability both in society and within the workplace.

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 and how it protects against disability discrimination, visit www.nidirect.gov.uk/articles/protection-against-disability-discrimination, and see the section 'Further guidance' on page 3.

This publication provides an overview of the Equality Act 2010 and specifically its relevance to brain injury survivors.

Being classified as disabled under the act

Under the Equality Act 2010, you are considered to be disabled *"if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities"*.

Within this definition...

- **'substantial'** means more than just minor or trivial;
- **'long-term'** means that the impairment has lasted or is likely to last for at least 12 months, or for the rest of the person's life;
- **'normal daily activities'** means everyday things like eating, washing, walking, going shopping, socialising, carrying out household tasks, etc.

A disability is referred to as a 'protected characteristic'. This means that it is an aspect of who you are; you therefore should not be discriminated against because of it.

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Email: helpline@headway.org.uk
Web: www.headway.org.uk

How the act applies after brain injury

Some conditions are automatically treated as a disability, including cancer, a visual impairment and long-term disfigurement, among others. However, for other conditions such as brain injury, you might need to prove that you have a disability under the Act's definition by showing the substantial and long-term impact of your condition.

Only the courts can decide whether someone is technically defined as disabled under the Equality Act 2010, but the aim of the Act is to be as broad as possible. As stated on the UK government website, in the majority of cases it is clear enough whether or not someone has a disability, but guidance is provided where things are not entirely clear. This guidance is available at www.gov.uk/government/publications/equality-act-guidance.

Being classified as disabled according to injury severity

People who have long-term disabilities as a result of a moderate or severe brain injury should be covered by the Equality Act's definition of 'disability', but may still be required to prove it.

It might be more difficult for people with a mild brain injury (otherwise known as concussion) to prove that they are classified as 'disabled', since under the Act the impairment must last or be expected to last 12 months or more. However, this still doesn't mean that they should be discriminated against.

Regardless of the severity of injury, many people have ongoing issues with aspects of life such as personal care, employment and relationships. These sorts of issues could make someone qualify as being considered 'disabled' under the Equality Act.

Further guidance

- Further detailed guidance on the Equality Act 2010 is available on the **UK government website** at www.gov.uk/guidance/equality-act-2010-guidance.

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- **Citizens Advice** has helpful information about the Equality Act 2010 and disability, at www.citizensadvice.org.uk.
- **The Equality, Advisory & Support Service** can offer advice on equality and human rights issues in England, Scotland and Wales, including if you think you have been discriminated against. Visit www.equalityadvisoryservice.com, or contact their advice line on 0808 800 0082.
- In Northern Ireland, you can get advice from the **Equality Commission for Northern Ireland**; visit www.equalityni.org/Home or contact 028 90 500 600.

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