

Equality Act – summary of key rights

What is the Equality Act?

The Equality Act 2010 replaces various pieces of equality legislation, such as the Disability Discrimination Act 1995, into one single act to make it easier to understand. You may still see some people refer to the Disability Discrimination Act from time to time.

Protection from unlawful discrimination

The Equality Act protects people from unlawful discrimination in the workplace, education and in wider society such as in the provision of goods and services.

This means you cannot be treated unfairly because you belong to a group of people with protected characteristics. These protected characteristics are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

What could this mean for you?

Epilepsy is classed as a disability which is covered by the Equality Act.

For example, you are looking for a job and declare your epilepsy during the interview. If your prospective employer turns you down simply because you have epilepsy, without doing an individual health and safety risk assessment, this may potentially be unlawful discrimination.

It's important to note that genuine health and safety reasons override rights under the Equality Act. Therefore, if your job cannot be made safe with reasonable adjustments (see below), it is potentially lawful for an employer to turn you down on health and safety grounds.

Right to a reasonable adjustment

The Equality Act gives you a right to ask for a reasonable adjustment if you feel you are being placed at a 'substantial' disadvantage because of a disability.

What could this mean for you?

For example, if you cannot drive because of your epilepsy, you may be entirely reliant on public transport to get you to work. If you need to be at work for 8am but you cannot make it on time because your earliest bus does not arrive until 8.30am, you could ask for a later start to your workday as a reasonable adjustment.

For example, if you have periods of sickness absence because of seizures, your employer should, as a reasonable adjustment, record these seizure related sickness absences separately from general sickness absence. This is to make sure you are not subjected to any disciplinary proceedings or a cut in sick pay because of overall absences.

Enquiries about health when looking for a job

An employer is not allowed to ask questions about a job applicant's health or disability, including previous sickness absence, during the recruitment process:

- until they have been offered a job, or
- until the job applicant has been included in a pool of successful candidates who will be offered a job when a suitable position arises.

There are however some exemptions to this. An employer, for example, would be allowed to ask these questions if:

- they need to find out whether a job applicant would be able to take part in an assessment/interview to test whether they are suitable for the work
- they need to make reasonable adjustments to allow the person with a disability to take part in the application and interview process
- they need to find out whether a job applicant would be able to undertake a function that is essential to the job, with reasonable adjustments in place as required

For a full list of exemptions check the [Equality and Human Rights Commission's website](#).

What could this mean for you?

Under the Equality Act, a prospective employer should not find out (with some exemptions, see above) during the recruitment process that you have epilepsy. This means an employer can only assess your suitability for a job based on your skills and experience.

You may still have to disclose your epilepsy to a prospective employer if there is a health and safety risk to you or others. For example, having frequent and uncontrolled seizures would make you unsuitable to work at heights on a construction site.

What if an employer asks a question about your health during the application process?

You may not have an option but to answer this question truthfully and it might impact on how well the rest of the interview goes.

The Equality Act gives you a right to make a complaint to the Equality and Human Rights Commission if you are asked these health-related questions on your application or during the interview. Only the Equality and Human Rights Commission can enforce a breach of this provision.

If you are asked a health-related question during the application process, you can use this as evidence in a discrimination claim against an employer. You can contact the ACAS helpline on 0300 123 1100, or the Equality Advisory and Support Service (EASS) helpline on 0808 800 0082 for more information and support.

Discrimination by association

The Equality Act protects anyone who is connected with someone who has a disability from discrimination and harassment.

What could this mean for you?

For example, you are the parent of a child with epilepsy and apply for a job that involves being frequently away from home. Your prospective employer may make assumptions that you may not manage because of your caring responsibilities and turn you down for that reason. This would be discrimination by association because you are 'associated' with a person who has a disability.

Discrimination arising from disability

The Equality Act makes it unlawful to treat someone differently due to anything associated with their disability. However, it is possible to justify such treatment if it can be shown to be 'a proportionate means of achieving a legitimate aim'.

What could this mean for you?

For example, memory issues are common for people with epilepsy. If you are in a job and struggle to remember to do certain tasks, your employer may consider letting you go because of this. This could be unlawful discrimination because memory issues are directly linked to your epilepsy.

Sometimes such actions could be justified if, for example, the memory problems compromised the safety of other employees. An employer would, however, have to look at making reasonable adjustments first of all, to support you with your memory issues.

For example, your child needs to wear a nappy or pad because of incontinence during seizures. Some nurseries require that a child needs to be toilet trained before they are offered a place. If a nursery tells you that your child can't join them because of the incontinence, this could be unlawful discrimination because the incontinence is directly linked to your child's epilepsy.

Harassment by third party

The Equality Act makes your employer potentially liable for harassment by a third party. This third party could be a customer, service user or contractor.

If you experience harassment from a third party while you are working, your employer will potentially be liable for this provided:

- the harassment has occurred on at least two previous occasions
- your employer is aware that the harassment has occurred
- and your employer has not taken reasonable steps to prevent this harassment from happening again

What could this mean for you?

For example, if at work you have regular contact with the public, and one of your regular customers keeps calling you demeaning names because of your epilepsy, your employer could potentially be liable. However, they would only be liable if they were aware it has happened on at least two separate occasions and they have not taken any steps to prevent it from occurring again. This step, for example, could be barring the abusive customer.

More information and support

For more information on the Equality Act, please check out the [Equality and Human Rights Commission website](#).

If you need help and advice with a potential discrimination matter, you can phone the Equality Advisory and Support Service (EASS) on 0808 800 0082.

For employment related matters, contact ACAS on 0300 123 1100.

Also check out our [Epilepsy and Occupational Health guide](#) for more information on rights and responsibilities at work under the Equality Act

If you want to talk about anything in general, our freephone helpline 0808 800 2200 is here to help and listen.

Our resources are always free. If you would like to support our work please text FACTS to 70085 to donate £3. Texts cost £3 plus one standard rate message.



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