Headway
the brain injury association

The Equality Act

A guide for brain injury survivors

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

www.headway.org.uk
0808 800 2244

Contents

Introduction 1
Being classified as disabled under the act 1
How the act applies after brain injury 2
Further guidance 3
Acknowledgements 4

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*'.

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.

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.

- 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.

Acknowledgements

Many thanks to Shazia Shah, Senior Associate Solicitor at Irwin Mitchell LLP and her colleague for their assistance with reviewing this publication.

We hope that this has been a helpful resource. Please consider sharing your feedback with us by scanning the QR code or by visiting our publication feedback survey https://uk.surveymonkey.com/r/hwpublications.

Learn more and support our work at www.headway.org.uk/get-involved.

This information was last reviewed in 2023.

We're here to listen.

If you need support, or have a question about brain injury, contact our free nurse-led helpline:

0808 800 2244
helpline@headway.org.uk

0115 924 0800 | enquiries@headway.org.uk
www.headway.org.uk

Head office: Bradbury House, 190 Bagnall Road,
Old Basford, Nottingham, NG6 8SF

Headway – the brain injury association is registered with the Charity Commission for England and Wales [Charity No. 1025852] and the Office of the Scottish Charity Regulator (Charity No. SC 039992]. Headway – the brain injury association is a company limited by guarantee registered in England [No. 2346893].