

Disability Discrimination- The Equality Act 2010

What is the Equality Act 2010?

The Equality Act seeks to consolidate existing Acts of Parliament and case law regarding discrimination against certain protected groups of people.

One of the key aims of the Act is to prevent the unlawful discrimination against disabled persons.

What constitutes a disability under the Equality Act 2010?

The definition of the Equality Act is as follows:

“A person is disabled if he or she has a **physical or mental impairment** and the impairment has a **substantial and long-term** adverse affect on his or her ability to carry out **normal day-to-day activities**”.

“Long term”= predicted to last for at least 12 months, or has lasted for at least 12 months.

“substantial”= more than minor

The above definition of disability is very wide, and can include a range of conditions, which can be mental or physical, and lifelong or temporary.

Examples of conditions which come under the scope of the Equality Act include:

- Diabetes;
- Physical impairments such as back problems;
- Learning difficulties such as dyslexia, and dyspraxia and learning disabilities;
- Mental health conditions such as bipolar disorder and depression.

- Sensory impairments, such as difficulties hearing or seeing.

What does not constitute a disability:

- Addition to, or dependency on, alcohol, nicotine, or any other substance;
- Hayfever;
- Tendency to start fires;
- Tendency to steal;
- Tendency to physical or sexual abuse of other persons;
- Exhibitionism;
- Voyeurism.

Do I need certification to prove that I have a disability?

No, section 1.2 of PSO 2855 states that “Under the Disability Discrimination Act, disability is self-declared and there is no need for certification or registration of disability, whether in the prison or in the community”.

Therefore, so long as you can show you fulfil the criteria in the Equality Act definition of disability, you do not need to prove anything beyond that.

Have you been discriminated against?

There are three types of discrimination covered by the Act: direct, indirect, and discrimination arising from a disability.

Direct discrimination

This form of discrimination occurs when a person discriminates against another person because of his/her disability, and treats that disabled person less favourably than they would a non-disabled person.

Examples of direct discrimination include:

- Not affording a disabled person the same treatment as other prisoners purely because of his/her disability.

Indirect discrimination

A person discriminates against a disabled person if they apply a provision, criterion or practice which is discriminatory in relation to his/her disability.

Examples of indirect discrimination include:

- Not providing large print reading materials for visually impaired prisoners in the library.

Prohibited acts under the Equality Act:

Harrassment

Harrassment of a disabled person because of their disability is prohibited under the Act.

Harrassment means that a person engages in unwanted conduct towards the disabled person, and the conduct is aimed at either:

- Violating the persons dignity;
- Creating an intimidating, hostile, degrading, humiliating or offensive environment.

Victimisation

Victimisation of disabled persons is prohibited. Victimisation occurs when a person subjects a disabled person to detriment because of his/her actual or perceived disability.

Legal Requirement to make ‘reasonable adjustments’:

If you have a recognised disability under the Act, the prison has a legal obligation to

make any necessary reasonable adjustments for you.

Generally, this applies where a criteria or physical feature puts a disabled person at a substantial disadvantage in comparison to a non-disabled person. Where this is the case, there is a legal obligation upon the prison to remove this obstacle.

This also applies where, without the provision of an auxiliary aid, the disabled person would be put at a disadvantage. If this is the case, the prison is under a duty to provide the auxiliary aid.

Some examples of reasonable adjustments may include:

- A ramp to allow for wheelchair access;
- Extended library loans for dyslexic prisoners;
- Large print books for visually-impaired prisoners.

Where do I go for advice about my disability and right to reasonable adjustments?

PSO 2855, under the section headed “Mandatory Requirements”, states that the first point of contact should be the Disability Liaison Officer. This can be done via a written application to see the officer.

If you have any complaints regarding treatment, or require a reasonable adjustment to be made, you should start by contacting the Disability Liaison Officer. If this does not resolve your problem, you can then proceed via the complaints procedure if necessary. Following this, feel free to contact the Prisoners’ Advice Service if you have any further queries.

PRISONERS’ ADVICE SERVICE PO BOX 46199 LONDON EC1M 4XA TEL: 020 7253 3323 / 0845 430 892
