

**epilepsy
society**


employment

A guide for employees and employers





- 4 health and safety law
- 4 equality law
- 7 for people with epilepsy
- 11 telling people about your epilepsy
- 15 for employers
- 17 risk assessments
- 18 what does equality law mean for me?
- 20 reasonable adjustments
- 24 other organisations

 When you see this symbol, it means further information is available.

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Epilepsy Society is grateful to the Disability Law Service for their guidance on this leaflet.

helpline

01494 601 400

Monday to Friday 10am to 4pm
(national call rate)

a guide for employees and employers

Having epilepsy does not necessarily stop someone from doing the job they want, but there are some issues which can affect work.

There is general information about epilepsy and employment at the beginning of this leaflet, and specific information for people with epilepsy (pages 7 to 14) and for employers (pages 15 to 23).

What is epilepsy?

Epilepsy is the tendency to have seizures that start in the brain. About 1 in 131 people in the UK have epilepsy. However, up to 70% (7 in 10) of people with epilepsy do not have seizures because their seizures are controlled with medication.

There are many types of seizure. In some types, the person loses consciousness and has convulsions (jerking movements). In other types, they become confused or blank and may not know what they are doing.



See our leaflet *seizures*.

How does epilepsy affect work?

Whether someone's epilepsy affects work depends on whether they have seizures, what their seizures are like and how often they happen.

It also depends on the type of work, and any risks having seizures at work might bring.

Two important laws that apply to employment are the **Health and Safety at Work Act 1974** and the **Equality Act 2010**.

health and safety law

The **Health and Safety at Work Act 1974** says that employers are responsible for making sure that all their employees are safe at work and protected from possible dangers to their health. This includes making sure that the job and the work environment is safe and has no health risks. Employees are also responsible for their own safety at work, and the safety of their work colleagues.

It is an employer's duty "to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees".

Health and Safety at Work Act 1974

equality law

The **Equality Act 2010** came into effect in October 2010. It replaces and brings together nine previous laws that aimed to protect people against discrimination, including the Disability Discrimination Act 1995 (DDA).

What is a disability?

Someone has a disability if they have “a physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities”. Equality Act 2010

Here, ‘substantial’ means it is difficult or time-consuming to do activities compared to someone without a disability, and ‘long-term’ means at least 12 months. ‘Day-to-day activities’ include being able to get around, hear, see, remember and concentrate.

Epilepsy is a physical, long-term condition and people with epilepsy are protected under the Equality Act even if their seizures are controlled or if they don’t consider themselves to be ‘disabled’.

Types of disability discrimination

The Equality Act protects people from several different types of disability discrimination, in terms of employment. Volunteer (unpaid) work is not covered by the Equality Act 2010.

Direct discrimination

It is illegal for an employer to treat someone with a disability worse than a person without a disability, without a justifiable reason.

Direct discrimination includes **perceived discrimination**, **associative discrimination** and **harrassment** (described over the page).

Perceived discrimination is where someone is treated unfairly because it is assumed that they have a disability, and that this affects their ability to carry out day-to-day activities. For example, making an assumption without any basis that a person's epilepsy will mean they can't do a job as well as someone without epilepsy.

Associative discrimination is where someone is treated unfairly because they are connected to someone else with a disability. For example, not promoting someone just because they have a child with a disability.

Harassment is being treated differently because of a disability, in a way that is humiliating or offensive and can't be justified.

Indirect discrimination

This is treating everyone the same in such a way that it puts someone with a disability at a disadvantage. For example, a rule that 'everyone must use the stairs' is unfair for people who use wheelchairs. To treat all employees equally, employers may need to treat someone with a disability differently to someone without a disability.

Discrimination arising from disability

This is treating someone unfairly because of something connected with their disability. For example, someone with a visual impairment is told they can't bring their guide dog to work, without a justifiable reason.

Failure to make reasonable adjustments

Reasonable adjustments are changes that employers are expected to make so that a person with a disability is not put at a disadvantage. For example, time off work for medical appointments should be recorded separately from sick leave. If an employer refuses to do this without a justifiable reason, their employee is at a disadvantage.



See page 9 for more about reasonable adjustments in employment.

Victimisation

This is treating someone unfairly because they have complained about any type of discrimination. This can be complaining on behalf of themselves or for someone else.

for people with epilepsy

As for anybody, the type of work you can do depends on your skills, qualifications, and experience. It may also depend on how your epilepsy affects you.

Can I do any job I want?

Not necessarily. All employers (except the Armed Services – see page 9) have to comply with safety and equality laws, which:

- cover you from when you apply for a job, throughout your work (including promotion and training) to when you leave it; and

- apply whether you have a disability when you apply for a job or if your disability starts once you are employed.

Employers cannot legally refuse to give you a job *just* because you have epilepsy. However, they may need to consider your epilepsy, and what the job involves, to ensure your safety and that of other employees.

Safety at work

Risks to safety will depend on what your epilepsy is like and what the job involves.

Some jobs are more risky than others if you have seizures. For example, working at heights, near open water or around unguarded machinery. As each situation is different, your employer may need to do a **risk assessment** to look at how your epilepsy could affect your safety at work.



See page 17 for more about risk assessments.

Can I do a job that involves driving?

- To get a Group 1 (car and motorbike) licence you must be seizure-free for one year (on or off anti-epileptic drugs). If you have seizures while you are asleep, you can drive if they have **only** happened during sleep for the last three years.
- To get a Group 2 (LGV or PCV) licence you must be seizure-free, and off anti-epileptic drugs, for 10 years.

If you are seizure-free and the DVLA say you can drive, you should be able to apply for a job that involves driving. Some employers use the DVLA regulations to help them assess safety risks. For example, if the DVLA say that you can drive a car, your employer may decide you can work with machinery.



See our leaflet *driving and travel*.

Can I get a job in the Armed Services?

The Armed Services (British Army, Royal Navy and Royal Air Force) do not have to follow the Equality Act 2010. This means you may not be able to work in the Armed Services if you have epilepsy, or have ever had epilepsy in the past.

Other health and safety regulations

Many professions have a governing body that sets health and safety regulations. The governing body will usually look at your individual situation to see whether you can do the job safely. Contact the relevant governing body for your job for further details on their recruitment policies and guidelines.

Reasonable adjustments

“The duty to make reasonable adjustments aims to make sure that as a disabled person, you have, as far as is reasonable, the same access to everything that is involved in getting and doing a job as a non-disabled person.”

Equality and Human Rights Commission

An employer needs to consider making adjustments that can help you to do a job as well as any other employee. This means looking at:

- anything about the job that is difficult for you to do;
- anything about the work environment that makes it difficult for you to do the job; and
- whether any changes to the job or work environment would help to overcome these problems.

Adjustments vary and will depend on how your epilepsy affects you and your work. Your employer can make adjustments when you apply for a job, or at any time during your employment.

Adjustments for your epilepsy could include:

- changing your working hours to avoid shift work if you have seizures that are brought on by tiredness;
- making changes to the building or office to make it safer;
- getting or changing equipment; and
- time off for medical appointments.

Help with finding a job

You can look for a job through your local Jobcentre Plus office, personal contacts, newspaper and website adverts or employment agencies.

Jobcentre Plus offices have Disability Employment Advisers (DEAs) who provide support to people with disabilities. They can help with assessments, referral to schemes for people with disabilities (such as Work Choice), job matching, and information on employers who are positive about employing people with disabilities.

If you are on benefits, you can get help, advice and support from Job Brokers through New Deal for Disabled People.



See page 24 for more organisations that can help with work, skills and training.



Visit www.direct.gov.uk for more details.

telling people about your epilepsy

Do I have to tell my employer?

You don't have to tell an employer about your epilepsy, although there are several reasons why this can help you (see over the page).

Some people worry that telling an employer about their epilepsy could affect their chance of getting a job or being treated fairly at work. Although discrimination can happen, the Equality Act 2010 aims to protect you from discrimination, and help your employer to treat you fairly and support you at work. Having the right information about your epilepsy can help employers to do this.

- **Employers have responsibilities under the Health and Safety at Work Act.**

For employers to be able to meet health and safety regulations, they need to know whether their employees have any medical conditions that could affect their work. Employers can only ask you questions about your health to help keep you and others safe at work, and to help you to be able to do your job. If your employer knows about your epilepsy they may make changes to your job or environment to make it safer for you. If you don't tell your employer, you can't hold them responsible for not doing safety assessments for you.

- **Employers are expected to make reasonable adjustments.**

If your employer knows about your epilepsy, they can make reasonable adjustments to your work or environment for you. But if your employer does not know about your epilepsy, you can't hold them responsible for not making reasonable adjustments that may help.

- **The people you work with will be more able to help you if you have a seizure.**

Often people feel more comfortable with epilepsy if they understand it and know what to do if someone has a seizure. This might help you, and them, feel more confident about what will happen if you have a seizure at work.



See our leaflet *first aid*.

We can provide tailored training for employers, first aiders and other staff.

When is the best time to tell a new employer about my epilepsy?

If you decide to tell your new employer about your epilepsy, there are several opportunities for you to do this.


- You could include a covering letter with your application explaining about your epilepsy. This could include details from your GP or neurologist about your epilepsy. This may help your potential employer to understand about your epilepsy before you have an interview.
- You might want to wait until you are invited for an interview, and talk about your epilepsy face to face. This gives you an opportunity to sell yourself, and your skills and experience, before mentioning your epilepsy.
- You might want to wait until a final interview, or when you are offered the job, before mentioning your epilepsy.

Once you have told your new employer about your epilepsy, they might do a risk assessment and consider reasonable adjustments for you. They may get medical advice, or ask a health and safety or occupational health expert to help.

Access to Work

Access to Work is a scheme that supports people with disabilities and their employers. If you have problems or particular needs at work because of your epilepsy, Access to Work may be able to help find solutions. For example, they may be able to fund

reasonable adjustments such as equipment or extra support at work, or help with the cost of getting to and from work if you are not able to drive or use public transport.

 **Contact your Jobcentre Plus for details of your nearest Access to Work Team.**

Other help with travel costs

If you do not drive because of your epilepsy, you can apply for a railcard to get discounted rail fares. You can also apply for a free national bus pass to travel around the UK.

 **See our leaflet *driving and travel*.**

Can I lose my job due to my epilepsy?

If you are already in a job and you develop epilepsy, or if your epilepsy changes and starts to cause problems at work, you might be worried about losing your job.

Under the Equality Act, your employer is expected to make reasonable adjustments so that you can carry on working (see page 9).

If you develop epilepsy, or your seizures are difficult to control, you may be referred to a specialist to review your epilepsy. The review may help with making decisions about your job. For example, it may help to identify reasonable adjustments for you. Some adjustments may be temporary while your epilepsy is being reviewed or treated, and some may need to change over time.



Who can I talk to?

You may want to talk to your line manager, or someone in your personnel or human resources department if you have one, about how you are feeling. Talking about any problems or concerns you have might help them to support you or look for reasonable adjustments that would help you.



Our helpline offers support to anyone affected by epilepsy (see back cover for contact details).



The organisations listed on page 24 might also be able to help.

for employers

One of the key points to remember about epilepsy is that it varies from person to person. While some people have regular seizures, up to 70% (7 in 10) of people with epilepsy could stop having seizures (with the right medication) so their epilepsy may have little or no effect on their work.

When employing someone with epilepsy, it is important to consider their situation individually and realistically, and base any decisions on fact. This means looking at *their* epilepsy and the effect it might have on their work. Talking to them about what their epilepsy is really like, and how it might affect their work, is more helpful than making assumptions about how it affects them.

What might be useful to consider?

About their epilepsy

- What type of epilepsy do they have?
- Do they have seizures? What are their seizures like, how often do they happen and how do they affect the person?
- Do they have any physical warning before a seizure (sometimes called an aura)?
- Do they lose consciousness and how does this affect them?
- Do they need an ambulance to be called and is there someone who can do this for them?
- How long do they need to recover from a seizure? Some people can return to work quickly and others may need more time.
- Are their seizures brought on by anything, such as tiredness or stress? (See page 22.)
- Do they take medication to control their seizures and how does this affect them (they may feel tired or find it hard to concentrate)?



See our leaflet *seizures*.

About the job

- Does the job involve any equipment, working at heights or near water, or any other potentially risky situation?
- Do they work alone or with other people (who could help if they had a seizure)?
- Would they be responsible for other people, such as children?

risk assessments

Under the Health and Safety at Work Act, employers have to make sure that all their employees are safe at work (see page 4).

To be able to do this, you need to know about your employees' disabilities or medical conditions, and assess any possible risks – a 'risk assessment'.

The Health and Safety Executive (HSE) say it is important that risk assessments:

- are based on the individual's circumstances, as each situation and each workplace is different;
- include only factual information; and
- avoid assumptions. For example, do not assume something is going to happen *just because they have epilepsy*.

For some people within certain jobs, their epilepsy may pose a risk to their health or safety, or to that of other people. However, health and safety law should never be used as a reason not to employ someone without first looking at any risks individually, and considering reasonable adjustments.

You may need to get medical advice or ask a specialist, such as a health and safety expert, to help with a risk assessment. This can also help to identify reasonable adjustments (see page 20).

what does equality law mean for me?

The Equality Act 2010 covers all areas of employment from recruitment and selection to training, development and promotion.

Asking health-related questions

Under the Equality Act 2010, employers are not allowed to ask questions about an applicant's health in any written form or in an interview, until the applicant has been offered a job, or placed in a pool of successful candidates to be offered a job.

An exception to this is where you can ask applicants health-related questions in relation to the recruitment process. For example, you can ask whether applicants need any specific requirements to enable them to attend an interview.

Recruitment

The Equality Act means that you need to consider a person with a disability fairly, along with all other applicants for a job. It does not stop you employing the best person for the job and it does not mean that you have to employ someone with a disability *because* of their disability, if they are not the best person for the job.

Job adverts should only ask for skills and qualifications that are genuinely relevant and don't put people with disabilities at a disadvantage. For example, only ask for a driving licence if it is a requirement of the job. If a skill or qualification is needed for the job, it is not discrimination to ask for it.

Application forms should be available in a variety of formats (for example online and printed copies). **Job contracts** should be the same, in terms of leave and sick pay, for everyone applying for the job.

Interviews

When choosing applicants to interview, the key thing to consider is whether they have the qualifications, skills and experience for the job. If an applicant has told you that they have epilepsy, it is helpful to think "are they right for the job and is their epilepsy relevant?"

For some jobs you might need to do a risk assessment or consider what reasonable adjustments you could put in place for any employee, *before* you recruit. An occupational health team may be able to advise you about risk assessments.

When a job has been offered

Once a job has been offered, you can ask questions about a disability if that will help you put any necessary reasonable adjustments in place.

reasonable adjustments

Under the Equality Act 2010 employers are required to make 'reasonable adjustments' so that a person with a disability is not at a disadvantage compared to someone without a disability.

You can ask about an employee's health if it helps you to make reasonable adjustments. If you ask questions that are not relevant to the job, or you use someone's health as a reason for dismissing them, this could be discriminatory.

Not everyone with epilepsy will need adjustments and any that are needed will vary depending on the person's needs.

Adjustments that may be helpful to consider for someone with epilepsy include:

- making their workspace safer in case they have a seizure;
- avoiding lone working so that someone else can help if they have a seizure;
- exchanging some tasks of the job with another employee's tasks;
- adapting equipment or providing equipment or support to help them do their job; and
- time off for medical appointments that is separate from sick leave (see page 22).

What is 'reasonable'?

What is a 'reasonable' adjustment depends on the situation. Some general guidelines for working out what is reasonable include:

- how practical the adjustment is to make;
- how effective the adjustment would be in helping the employee;
- how it might affect other employees; and
- the cost of making it and your financial situation. You will need to pay any costs for reasonable adjustments that are made. You may be able to get help with the cost through Access to Work or other schemes.



See page 13 for more information on Access to Work.

You may also need to make adjustments if someone develops epilepsy while they are employed by you. It is worth remembering that some people's epilepsy can change over time, for example if their seizures become controlled (stop happening). So the need for reasonable adjustments may change over time.

Other factors to consider

Seizure triggers

Some people know that particular situations ‘trigger’, or bring on, their seizures. These can include being tired, stressed or anxious.

If someone’s seizures are triggered by tiredness, shift work could make them more tired and trigger seizures. This is because shift work can disturb the normal pattern of sleep. A reasonable adjustment may be to consider changing or reducing shift work, or changing working hours for this person.

Working with computers

For most people with epilepsy, working with computers is not a problem. Up to 5% (5 in 100) of people with epilepsy have photosensitive epilepsy: where seizures are triggered by flashing or flickering lights, or by moving patterns. Modern flatscreen computers do not flicker and so the screen itself is unlikely to trigger seizures. However, flashing images on the screen could be a photosensitive trigger for some people.

If an employee does have photosensitive epilepsy, it may be helpful to discuss this with them directly.



See our factsheet *photosensitive epilepsy*.

Time off work

If someone’s epilepsy is controlled (they don’t have seizures) they are unlikely to need more

time off work than other employees. Time off work might depend on the type of seizures they have and the time they need to recover.

Time off work because of a disability, for example to attend a medical appointment or to recover from a seizure, is considered a reasonable adjustment. It is usually recorded separately to time off for other reasons (for example, sick leave for a cold).

Insurance and pension schemes

Employers' Liability Insurance covers all employees in the workplace. However, you need to have made all reasonable efforts to ensure the safety of your employees, including individual risk assessments where needed.

The Equality Act covers occupational pension schemes. This means that if a pension scheme is offered, all employees can join and must be treated fairly under the terms of the scheme.



Contact the Pensions Advisory Service
(see page 25 for contact details).

Help and advice for employers

The following organisations can provide information and advice on employing people with disabilities and the Equality Act.

- Equality and Human Rights Commission.
- Health and Safety Executive.
- Employers' Forum on Disability.



See page 27 for contact details.

further information

Epilepsy Society information

Driving and travel

First aid

Photosensitive epilepsy

Seizures

other organisations

Help with work, skills and training

Jobcentre Plus

See your local phone book or

www.jobcentreplus.gov.uk

Information on training and employment.

Disability Employment Advisers

(at local Jobcentre Plus offices) can provide support for people with disabilities. They may know what schemes are available locally to help you get back into work. They have details of Access to Work teams.

learndirect

Helpline 0800 101 901

www.learndirect.co.uk

Information on learndirect courses.

Local libraries and colleges

See your local phone book.

Details of adult and further education courses.



National Extension College

0800 389 2839

www.nec.ac.uk

Information about Open (Distance) Learning.

Open University

0845 300 6090

www.open.ac.uk

Information about Open (Distance) Learning.

Remploy

0845 155 2700

www.remploy.co.uk

Supports people with disabilities into work.

Shaw Trust

01225 716 300

www.shaw-trust.org.uk

Supports people with disabilities into work.

Skill – National Bureau for Students with Disabilities

www.skill.org.uk

Information to support disabled people in education, employment and training.

The Pensions Advisory Service (TPAS)

Pensions helpline 0845 601 2923

www.pensionsadvisoryservice.org.uk

Independent organisation providing information on pension schemes.

Volunteering England

0845 305 6979

www.volunteering.org.uk

Information on volunteering opportunities.

Guidance on employment law and discrimination

ACAS (Advisory, Conciliation and Arbitration Service)

Helpline 08457 47 47 47

www.acas.org.uk

Advice for employers and employees.

Citizens Advice Bureau (CAB)

See your local phone book or

www.citizensadvice.org.uk

Local CABs offer free, confidential
and independent advice.

Disability Law Service

Advice line 020 7791 9800

www.dls.org.uk

A charity offering free legal advice
to individuals about the Equality Act
and employment.

Employers' Forum on Disability

020 7403 3020

www.efd.org.uk

Employers' organisation which focuses on disability as it relates to business.

Equality and Human Rights Commission

Helpline 0845 604 6610

www.equalityhumanrights.com

Offers information promoting equality.

Health and Safety Executive

Infoline 0845 345 0055

Minicom 0845 408 9577

www.hse.gov.uk

Guidance on health and safety legislation.

Royal Association for Disability and Rehabilitation

020 7250 3222

www.radar.org.uk

A network of disability groups.

Trade Unions

Via personnel or human resources teams. Most trade unions have positive policies on the employment of people with disabilities and can help in cases of discrimination.

Every effort is made to ensure that all information is correct. Please note that information may change after printing. This information is not a substitute for advice from your own doctors. Epilepsy Society is not responsible for any actions taken as a result of using this information.

www.epilepsysociety.org.uk

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Information and emotional support.
Confidential. Translation is available.

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