The Equality Act 2010
In October 2010 The Equality Act 2010 replaced the Disability Discrimination Act (DDA). The Equality Act 2010 brought together a number of separate forms of legislation which protect the rights of certain groups of people, and reduce inequality and discrimination. These forms of legislation protect people against discrimination, for example, on the grounds of race, age, sex and disability.

The Equality Act protects the rights of individuals, and make sure that a person with a disability has the same rights as a person without a disability. The act applies in many situations, from employment to transport, from property to education.

The act means that education providers (including schools, colleges and universities) must not discriminate against someone with a disability, and must support people with disabilities within education. It also means that education providers must give appropriate help and support to students and potential students with disabilities.

Is epilepsy a disability?
Being ‘disabled’ is often seen as very negative: it focuses on what someone ‘can’t do’ rather than on what they ‘can do’. Some people feel it is a ‘label’ that defines who they are: a ‘disabled person’ rather than a person who happens to have a disability, and so they may feel reluctant to consider themselves as having a disability. In addition, some people may not feel that their epilepsy is a disability or that they are disabled by it.

The Equality Act 2010 looks at the impact of a condition to determine whether it is a disability for any particular individual. A person is considered to have a disability if they have:

• “a physical or mental impairment”;
• that has “a substantial and long-term adverse effect”;
• on their “ability to carry out normal day-to-day activities”.

Here, a physical or mental impairment includes medical conditions such as epilepsy. ‘Substantial’ means not trivial or minor, and ‘long-term’ normally means for at least 12 months. ‘Day-to-day activities’ includes things like getting around, being able to remember and concentrate, and to get on with a ‘normal’ life.

For example, for someone with epilepsy who has controlled seizures, their epilepsy may have little impact on their “ability to carry out normal day-to-day activities”. For someone with epilepsy who has frequent seizures, their epilepsy may have a substantial impact on their day-to-day life.

Under these conditions, epilepsy is a disability for many people. As a disability, people with epilepsy have the right to expect to be protected against being discriminated, and the right to expect support and help from the university.

University is covered under the Equality Act part 6 (Education) chapter 2 (Further and higher education).
Briefly, the act makes the following points.

• Disability discrimination is when someone treats another person less well than they would treat others, because of that person’s disability.

• Direct discrimination is when someone treats a person with a disability less well because of something to do with that person’s disability, and this cannot be justified. However, this is not discrimination if someone doesn’t know, or cannot reasonably be expected to know, that the person has a disability.

• Indirect discrimination is when someone discriminates against a person with a disability by applying a provision, criterion or practice that is discriminatory in relation to that person’s disability and this cannot be justified.

Universities must not discriminate, harass or victimise a person with a disability in:

• how it offers places or enrols students;
• how it provides the educational course;
• how students gain qualifications; or
• how it treats a student or someone who applies to become a student.

So the act not only ensures that a person with a disability is not treated unfairly because of their disability, they also ensure that a person is not treated the same as everyone else if it puts them at a disadvantage because of their epilepsy.

Universities also have a duty to make reasonable adjustments to support students with disabilities.

How does the Equality Act 2010 apply to epilepsy?

Having epilepsy means that individuals can be covered by The Equality Act 2010. This means that you have obligations under these acts to ensure that you do not discriminate against an individual with epilepsy. This applies from offering places and enrolling students, throughout the course, and to gaining qualifications. Visit www.legislation.gov.uk/ukpga/2010/15/contents for more information.

If you are concerned that any of your current practices may mean that you are in breach of any of the elements of the act, or you want help and advice about meeting your obligations, you can contact the Equality and Human Rights Commission. Visit www.equalityhumanrights.com for more information.

Reasonable adjustments

Reasonable adjustments are provisions or changes that are made so that a person with a disability is not put at a disadvantage because of their disability, or that enable the person with a disability to have the same access as people without a disability. Universities have a duty to make reasonable adjustments under The Equality Act 2010.

The Equality Act says “where a disabled person is at a substantial disadvantage in comparison with people who are not disabled, there is a duty to take reasonable steps to remove that disadvantage by changing provisions, criteria or practices, altering, removing or providing a reasonable alternative means of avoiding physical features and providing auxiliary aids.” Visit www.equalityhumanrights.com/advice-and-guidance/further-and-higher-education-providers-guidance

Epilepsy varies from one person to another so a reasonable adjustment appropriate for an individual depends on how their epilepsy affects them, and what the situation is. An example of a reasonable adjustment is giving a student with epilepsy more time to complete a piece of coursework, if they have seizures that affect their ability to complete coursework within the same time frame as other students.

Understanding an individual’s epilepsy

As each person with epilepsy will have their own needs and abilities, the key is to consider each situation individually. To do this, it is important to understand that person’s epilepsy and how it affects them.
• The nature of the ‘activity’
This might be a study or course-related task or activity, or something related to the halls of residence or social or leisure activity. Things to consider might include whether the activity involves using equipment or technology, whether the individual would be alone or with other people.

• What, about the individual’s epilepsy, might cause a difficulty or put the individual at a disadvantage?
This involves looking at how the individual’s epilepsy might impact on the activity, and what impact this could have on them. For example, an individual who has a seizure at night might be very tired the next day and be unable to get to class on time, or to meet a coursework deadline.

• How can any potential problems be overcome or resolved?
This involves looking at the issues raised and considering how the situation can be changed, or reasonable adjustments made, so that the person is not put at a disadvantage. This could include extending a coursework deadline or changing the time of a tutorial.

Risk assessments
In some cases, a formal risk assessment is needed to identify the risks and solutions or reasonable adjustments. The important point to remember is that epilepsy varies from one person to another, so a solution for one person with epilepsy may not be appropriate for another. For example, while one person may have regular seizures and need medical help, another may only have seizures at night or on waking, and another may no longer have seizures. Talking through these issues with the individual, is useful to identify and start looking for ways to resolve any potential problems.
• Decisions about reasonable adjustment have to be realistic and based on the individual’s situation.
• It may be necessary to do a risk assessment before decisions can be made.