# Equality and Human Rights

## Introduction

In Scotland there are three key pieces of legislation about the fundamental Equality and Human Rights of disabled people.

* **The Equality Act (2010)**is about equalities in the UK
* **The European Convention of Human Rights**is about Human Rights in the UK
* **The United Nations Convention on the Rights of Persons with Disabilities**is about the rights that disabled people should have.

## The Equality Act (2010)

The Equality Act 2010 protects people from discrimination in the workplace and in wider society. It came into force on 1st October  2010 and replaced earlier laws with one Act, making the law easier to understand. It explains the “protected characteristics” of people who are protected from discrimination.

Discrimination means treating you unfairly because of who you are. Under the Equality Act it is against the law to discriminate against anyone because of their:

* age
* disability
* gender reassignment
* marriage and civil partnership
* pregnancy and maternity
* race
* religion or belief
* sex
* sexual orientation

These are called ‘protected characteristics’. Discrimination against one or more of these ‘characteristics’ is unlawful under the Act.

The Equality Act sets out the different ways  it is against the law to treat someone, such as: ‘direct and indirect discrimination’, ‘harassment’, ‘victimization’ and ‘failing to make a reasonable adjustment for a disabled person’. It protects you from discrimination by:

* employers
* businesses and organisations which provide goods or services (like shops and banks)
* public bodies (like government departments and local councils)
* health and care providers (like care homes and hospitals)
* someone you rent or buy a property from (like housing associations and estate agents)
* education providers (like schools and colleges)
* transport services (like buses trains and taxis)

Disability Discrimination

The Equality Act defines a disabled person as:

**“someone who has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities”.**

The Equality Act includes special rules that ensure that people with HIV, cancer and multiple sclerosis are seen as disabled people from the point they are diagnosed, rather than from when the conditions stops them carrying out normal day-to-day activities. Some conditions aren’t covered by the disability definition e.g. addiction to non-prescribed drugs or alcohol.

For further information on the definition of disability, see the [**Equality Act Guidance**](https://www.gov.uk/guidance/equality-act-2010-guidance) here <https://www.gov.uk/guidance/equality-act-2010-guidance>

Duty to make reasonable adjustments

Employers, service providers and education providers have to make reasonable adjustments (sometimes called adaptations) for disabled people, these are,

* Change the way things are done: you could ask them to change the way they do things so you can have better access.  This could be a policy, rule or a practice. The Equality Act calls this a ‘provision, criterion or practice’
* Change a physical feature: sometimes a physical feature of a building may make it difficult for you to have proper access. A reasonable adjustment could be a ramps, a wider doorway or better lighting**.**
* Provide extra aids or services: you may need a particular aid, piece of equipment or an additional service to help you access or do something. The Equality Act calls this ‘auxiliary aids and services’. Examples of auxiliary aids and services could include a portable induction loop for people with hearing aids or providing a British Sign Language interpreter.

Finding a reasonable adjustment can be a creative process as there’s no ‘one size fits all’ answer. It might depend on:

* how easy it is to make the changes
* if the change you ask for would stop the problem you and other disabled people experience
* the size of the organisation
* how much money or resources they have
* the cost of making changes

## Public Sector Equality Duty

The Public Sector Equality Duty came into force in April 2011. It places a duty on public authorities to consider or think about how their policies and decisions affect people who are protected under the Equality Act. There are also Scottish Specific Duties here <http://www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties>

You can find more information about the Equality Act here <https://www.equalityhumanrights.com/equality/equality-act-2010> and specific information about equality and your rights at work here <https://www.acas.org.uk/discrimination-and-the-law>

## European Convention on Human Rights

The Council of Europe was formed after the second World War. It developed legislation about fundamental human rights that everyone should have and the European Convention of Human Rights came into force in 1953. It has been amended and added to over the years since. It was incorporated into the UK Human Rights Act in 1998. The rights it protects are:

* the right to life (Article 2)
* freedom from torture (Article 3)
* freedom from slavery (Article 4)
* the right to liberty (Article 5)
* the right to a fair trial (Article 6)
* the right not to be punished for something that wasn’t against the law at the time (Article 7)
* the right to respect for family and private life (Article 8)
* freedom of thought, conscience and religion (Article 9)
* freedom of expression (Article 10)
* freedom of assembly (Article 11)
* the right to marry and start a family (Article 12)
* the right not to be discriminated against in respect of these rights (Article 14)
* the right to protection of property (Protocol 1, Article 1)
* the right to education (Protocol 1, Article 2)
* the right to participate in free elections (Protocol 1, Article 3)
* the abolition of the death penalty (Protocol 13)

You can find more information about each of these rights here <https://www.equalityhumanrights.com/human-rights/human-rights-act>

Human Rights are binding on “public authorities”. Citizens Advice Scotland explains what “public authorities” are here <https://www.citizensadvice.org.uk/scotland/law-and-courts/civil-rights/human-rights/human-rights-in-scotland-s/public-authorities-s/>

The way some rights apply is complex, for example the right to liberty is not absolute. Your liberty can be taken away in certain circumstances such as when you break laws that could result in a prison sentence.

Rights under the Convention are protected by the European Court of Human Rights but only after cases have been taken to the highest court in your country. The European Court may rule that a particular action was illegal under European Human Rights Law but sometimes the ruling is clear; some European Court rulings are “guidance” rather than law.

You can find out more about Human Rights here <https://www.equalityhumanrights.com/human-rights/what-are-human-rights>

The Scottish Government is planning new Human Rights legislation for Scotland **Human rights – gov.scot (www.gov.scot)**

Citizens Advice Scotland has information about challenging Human Rights breaches here <https://www.citizensadvice.org.uk/scotland/law-and-courts/civil-rights/human-rights/human-rights-in-scotland-s/human-rights-s/>

## United Nations Convention on the Rights of Persons With Disabilities

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is an international treaty which has existed since 2006 and which the UK signed in 2009. CRPD explains a lot of specific rights that disabled people should have. In summary the aims of CRPD are:

* eliminating disability discrimination
* enabling disabled people to live independently in the community
* ensuring an inclusive education system
* ensuring disabled people are protected from all forms of exploitation, violence and abuse

You can view the UNCRPD in full here:

[**https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html**](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html)

You can also access the latest reports on how the UK is doing in relation to CRPD and human rights on the Equality and Human Rights Commission here:

<https://www.equalityhumanrights.com/our-work/our-human-rights-work/monitoring-and-promoting-un-treaties/crpd/progress-disability-rights?return-url=https%3A%2F%2Fwww.equalityhumanrights.com%2Fsearch%3Fkeys%3Duncrpd>

Information last updated on **26 August 2024**. Please note that information may be subject to change. All information is provided in good faith but Disability Information Scotland does not endorse any product or service referred to within this resource.