



EPILEPSY: A GUIDE TO SUPPORTING MEMBERS

Supporting trade union members with unseen disabilities can, at first, be quite overwhelming. The STUC Disabled Workers Committee offers this short briefing paper as an overview of things to consider when representing a member. Epilepsy is the most common neurological disorder. There are over 40 different types of seizure which are for practical purposes commonly split into two categories: generalised and partial. The two most people know of are tonic clonic (grand mal) and absence (petit mal).

Epilepsy is a very complex disorder which affects every individual differently. People, when having a tonic clonic seizure, will have strong physical 'jerking' movements, whilst those experiencing an absence some may look 'absent' for a short period of time.

This briefing from the Disabled Workers Committee is not designed to make union reps experts in the condition but to help them support their members with epilepsy in their workplace.

[Epilepsy Scotland](#) is a national charity supporting the 54,000 (1:97) people affected by the condition living in Scotland. They have a wide range of high quality information available from their website. Included in this is factsheets including Rights and Benefits and various guides including epilepsy and occupational health and a guide for employers.

In addition to becoming more familiar with the condition the main advice for reps would be to;

- Ensure your member is aware of their rights under the Equality Act 2010 and aware of their responsibility for their own health and safety and that of their co-workers
- Encourage them to disclose their condition to their employer, thus ensuring the employer is aware of their legal responsibilities
- Support them to be fully supported by their medics and occupational health, this should include a risk assessment of their working environment
- Become familiar with your employer's sickness absence policy, particularly relating to **disability leave***
- Check your national union for their literature on disability issues

* **disability leave** is a term contained within the Equality Act 2010.

In practical terms, this means that anyone absent from work due to their disability – when they are unwell, require time away from work to attend medical appointments or undergo/recover from treatment – has their period of absence calculated separately from general sickness absence. This is vitally important when employers increasingly have short-scale triggers for sickness absence which may lead to formal absence reviews. Model disability leave policies are not yet commonplace, however the [TUC's guide on Sickness Absence and Disability Discrimination](#) provides information on case law and suggested reasonable adjustments for members with long term conditions.

In 2003 the HSE carried out a study that showed that workers with epilepsy are more likely to suffer discrimination in the workplace than other workers with long term conditions¹. This arose as a result of many factors including failure to appreciate genuine health and safety risks, a lack of consistency in the way employer's attitude to impairments and a lack of consensus on how impairments affect the ability to do the job.

Additionally there was found to be no consistency in the approach taken across business sectors with employers in manufacturing, engineering and construction less likely to employ someone with epilepsy than employers in other industries.

The report also revealed that out of 385 employment tribunal applications (up to the year 2000) under the Disability Discrimination Act where employers pleaded justifiable discrimination as a defence, 79 related to health and safety concerns, 37% of these cases were found in favour of the applicant. Health and safety defences at these tribunals included cases involving individuals with mental illness, epilepsy, cerebral palsy, and back problems.

One of the significant conclusion in the report was that 60% of employers were at the risk in discriminating against those with epilepsy, either intentionally or not by claiming they would not employ someone with epilepsy.

Case Study

James was diagnosed with epilepsy three months ago and has been off sick from work during this period. Having been in the care of a Neurologist, James is aware that he needs to review his workplace in order to minimise the potential for a seizure at work. James approaches his trade union rep for support. We would refer you to the bullet points above as general reference. In particular, it would be helpful to explore with James what type of epilepsy he has, what are the common triggers and obtain as much information about his work environment as possible. It may be helpful to ask James to consider having his union's Health and Safety Rep to be involved at the early stages as James will be engaged with Occupational Health at some point. Also, consideration should be given to James having a supported phased return to work with clear points and time-scales being agreed with the employer in order to suitably review his return to work.

¹ HSE Research Report 167; The extent of use of health and safety requirements as a false excuse for not employing sick or disabled persons;2003
<http://www.hse.gov.uk/research/rrpdf/rr167.pdf>

Resources for Representatives

Epilepsy Scotland

Epilepsy Scotland publishes a wide range of guides and factsheets on epilepsy and the following might be particularly useful for trade union representatives in the workplace

Epilepsy Explained; a useful guide to provide reps with an understanding of epilepsy

<http://www.epilepsyscotland.org.uk/pdf/AGuidetoEpilepsy.pdf>

Epilepsy and Employment; a guide for those with epilepsy on rights at work and how to manage epilepsy in the workplace

<http://www.epilepsyscotland.org.uk/pdf/EpilepsyEmployment.pdf>

Epilepsy and Occupational Health; a good practice guide for employers but equally useful when representing members with epilepsy

<http://www.epilepsyscotland.org.uk/pdf/ES-Occupational-Health-Guide.pdf>

First Aid for Epilepsy; useful information for workplace First Aid Officers on how to help worker during seizures,

<http://www.epilepsyscotland.org.uk/pdf/FirstAidSeizures.pdf>

TUC

Sickness Absence and Disability Discrimination, a trade union negotiator's to the law and good practice; includes advice on the law and disability, reasonable adjustments and disability leave agreements.

http://www.tuc.org.uk/tucfiles/526/Sickness_Absence_and_Disability_Discrimination_Feb2013.pdf

HSE

A case study involving a construction worker with epilepsy

<http://www.hse.gov.uk/disability/casestudy1.htm>