

TUDA News

August 2008 Liberty special

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This edition of the Trade Union Disability Alliance (TUDA) Newsletter is published to celebrate the London Liberty Festival, Saturday 30th August 2008.

That festival is intended to celebrate the contribution of Deaf and disabled people to London's culture. Come and join us at Liberty. Alongside all of the Deaf and disabled artists and performers, TUDA, the organisation of disabled trade union members, has a presence at Liberty. Please ask us questions, please find more about the role that your trade union can play in supporting you, and allowing you to fully participate, not only in the workplace, but in wider society. Please read this newsletter to find out more about who we are. Please visit our website, www.tuda.org.uk, and please join TUDA. We look forward to seeing you at our stall.

NEWSFLASH Disability Discrimination Extended to Carers

In **Coleman -v- Attridge Law**, the European Court of Justice (ECJ) considered whether EU discrimination law covering the disabled applied to people not themselves disabled but closely associated with a disabled person. The ECJ decided that it did. This is a very important

development of the Disability Discrimination Act (DDA) and, indeed, all discrimination law.

The Facts

Ms Coleman claimed that she was both discriminated against and harassed into resigning from her job after giving birth to a severely disabled son. Her employer refused to allow her to return to her existing job after her maternity leave; called her “lazy” when she sought time off to care for her son and refused her the same flexible working arrangements as colleagues with non-disabled children. Ms Coleman is not disabled but asserted that her relationship with her son, who is, afforded her the protection of the DDA. As drafted, it did not. She sought to argue that the DDA does not properly apply the Equal Treatment Directive and, so, the issue was referred to the ECJ.

The Decision

The ECJ decided that people who are not themselves disabled may rely on legislation prohibiting direct discrimination on the grounds of disability. The claimant must establish facts from which it may be presumed that there has been direct discrimination on the “grounds of disability”. The respondent then has the burden of proving that there has been no discrimination.

The ECJ directed that, where an employee provides the primary care for a disabled child, an employer must treat that employee, who is not herself disabled, no less favourably than another employee in a comparable situation. The less favourable treatment will be regarded as being based on the disability of the child and so contrary to the disability discrimination legislation.

The allegation of harassment was also considered and, again, the ECJ concluded that the DDA should protect those who are not themselves disabled but are associated with a disabled person.. Where an employee in the same situation as Ms Coleman suffers conduct amounting to harassment the employer is responsible.

Wider Impact

This decision places disability discrimination on a level playing-field with other forms of discrimination such as race, sexual orientation or religion in the case of all of which discrimination by association is already

prohibited. This case will extend this prohibition to sex and age discrimination bringing a consistent approach across the different strands of discrimination.

TUDA AGM 26 APRIL LONDON

TUDA's AGM was a lively and well attended day, which covered a range of contemporary issues in the disability movement.

Julie Newman Chair of UKDPC spoke about the challenges and changes confronting the organisations.

Liz Sayce Chief Executive of RADAR spoke more generally about key political issues for disabled people. People think disability equality is 'done'. We DO have disability rights law – now we need to make it central in new developments: 3 million new homes, future of social care, meeting Britain's skills shortages, employment and child poverty targets, justice.....

For which we need wider alliances e.g. on independent living – women and carers' organisations, social care organisations, unions, and business. We need to: go beyond the idea that disability led means ONLY disabled people involved; be at decision-making tables; Scrutiny nationally and locally

Local solutions e.g. challenging eligibility criteria Harrow, Lewisham. Influencing housing, building control, transport...A groundswell: disabled people and trade unionists using DED and influence

Richard Howitt MEP long time disability campaigner spoke about recent developments in Europe – in particular the prospect of a European Directive (law) banning disability discrimination in goods and services – which will bolster some aspects of our UK law – and spread rights throughout Europe

Henrietta Spalding Head of Professional Development, Changing Faces gave a fantastic talk on the problems confronting workers with facial disfigurement – amazing how the barriers are so similar for all disabled people – Prejudice is prejudice I guess. In terms of support from the unions - it would be great if we could raise their awareness of the challenges that workers with disfigurements face and

How they might help support individuals both through access to good information and support e.g. through Changing Faces but also by

encouraging employers to develop best practice in terms of service delivery - again we can provide guidance on this.

An inspiring day – and great to have delegates from Scotland Northern Ireland and all over England. Next year we'll add in some Welsh delegates!

Independent Living Strategy

The Government has just published the Independent Living Strategy. This is a cross-departmental strategy. The National Centre for Independent Living said in their press release “NCIL believes the strategy contains an array of interesting ideas and measures to tackle barriers to disabled people’s equality and independence”. The pan-departmental approach outlined in the strategy is a welcome step forward bringing about equality of access for disabled people in areas such as housing, education, employment, benefits, leisure opportunities and health and social care support. However, NCIL is disappointed that there is no commitment to legislation to guarantee disabled people the right to reach their full potential as equal citizens.

The Office of Disability Issues (ODI) is holding a number of consultation events around the country so here are your chance to say what you think about the Independent Living Strategy. Alternatively, the ODI will take written, audio and spoken responses as well. There are two events that have been organised: 4th June Brit Oval in London
The Live Group Tel No: 0208 481 3317 Type talk: 1800-1020-84813317 Website: livegroup.co.uk/independentliving Email address: odi.independentlivingconference@livegroup.co.uk

The consultation seeks views on how to involve disabled people in the implementation and monitoring of the Government’s Independent Living Strategy.

For example, two possibilities are:

Setting up an Independent Living Scrutiny Group, to monitor – at a national level – annual progress on the Strategy

Supporting networks of disabled people to be involved at regional and local levels in implementation and monitoring of the Strategy.

Respond by: 20 June 2008. You can respond by post or email:

Address: Independent Living Review, Office for Disability Issues, The Adelphi, 1-11 John Adam Street, London, WC2N 6HT

Telephone: 0207 712 2845 Textphone: 0207 712 2032

There will be a lobby on this strategy on 11th June at the House of Commons from 2-4. This will be preceded by a rally outside Downing Street from 11 onwards. This is being co-ordinated by our lives our choices. Key demands are for a legislative right to independent living, an end to the current lottery of social care provision to save DLA and Attendance Allowance.

The strategy includes pledges to: review charging against the disability equality duty

remove disincentives in the benefits system to taking up public appointments and initiatives to promote better understanding of independent living, boost disabled peoples leadership and involvement and develop user led advocacy and brokerage.

The radical reform programme disabled people want is not included in the Human Rights Ratification

The UK Government is intending to ratify the UN Convention

but with reservations on a number of key areas. This is totally unacceptable as it signals that the UK is committed to the continuing abuse of our human rights.

A new petition has been set up on the Downing Street website to address this issue at: www.petitions.pm.gov.uk Please sign and circulate widely to your networks

D.A.N Action Report - 17th April 2008

Today more than twenty disabled activists occupied the foyer of Adelphi House, where the Department of Work and Pensions is based. At 1.30 p.m. campaigners breezed in, taking over the foyer, leafleting and asking to hand deliver a letter to James Purnell, Secretary of State for the Department of Work and Pensions. Members of D.A.N. the Disabled people's Direct Action

Network refused to leave until a meeting was arranged with James Purnell to discuss Incapacity Benefit and the changes which are forcing one million disabled people into poverty and unpaid work placements.

James Purnell was out of the country, so D.A.N. activists met with representatives from the DWP and Sally Witcher from the Office for Disability Issues and held long

discussions.

The result of these discussions is, D.A.N. have been promised a meeting with James Purnell, the date of which is to be confirmed. “We are very confident that the meeting will happen as we have promised to come back for another visit if it doesn't.”

Changing Faces – Henrietta Spalding talked to delegates at the TUDA AGM and Conference on the 26th April, 2008.

Henrietta Spalding head of professional development for Changing Faces – the way you face disfigurement.

Henrietta explained that disfigurement is the generic term for the aesthetic and/or functional effect of scars, asymmetry, paralysis, surgery on face, hands and body

from any cause
birth condition
accident/trauma
cancer treatment
eye conditions
skin conditions
facial paralysis (including Bells' Palsy)

Henrietta informed us that The definition of disability under the Disability Discrimination Act has been extended to include people with disfigurements as it is recognised that society discriminates against them as much as any other disabled person. In fact in many cases Facial disfigurement is sometimes thought/assumed to be the very worst thing that can happen – the face is, after all, where we look, express our feelings, laugh, our fortune...Medical interventions (e.g. plastic surgery after burns) can sometimes make disfigurement less conspicuous but it can rarely be removed. This results in everyday social encounters (making friends, going to shop, travelling on bus), other people's reactions can vary from: Staring, Pity, Curiosity, Embarrassment, Avoidance, and Name-calling, prejudice and discrimination. Individuals report many different experiences - based on their appearance, often they are treated badly and unfairly. These can include Inaccurate assumption made at interview

Under / unemployment

Lower expectations of performance by line managers

Lack of opportunity of front line positions / promotion

Colleagues questions

Negative experiences – teasing, staring, questions, double-takes, names, exclusion

Colleagues behaviours' - ridicule, ostracism, abuse

Changing Faces has designed and proven a “living with...” package of “disfigurement life-skills” involving:

F	FINDING OUT
A	ATTITUDE-BUILDING
C	COUNSELLING and ADVICE
E	EXCHANGING EXPERIENCES
S	SOCIAL INTERACTION SKILLS TRAINING

What can employers do and how can trade unionists representatives help?

Ensure their staff are informed and engaged in the issues that people with disfigurement face.

Ensure their staff are equipped to work confidently with people with disfigurement

Recruit, retain and promote individuals with disfigurements fairly and equally

Provide employees with disfigurements with access to a range of interventions based on the *Changing Faces* model ensure their self-confidence

Deliver best practice for all creating a culture of equality and inclusion
Changing Faces, as a Catalyst for Change, seeks to inform and encourage employers about the effects of living with disfiguring conditions

Changing faces can provide disfigurement confidence training to employers and their staff

Changing Faces can support companies in meeting their employees needs

Changing Faces can support companies to ensure that they deliver good practice in recruitment, employment, retention and promotion for people with disfigurements

Website: www.changingfaces.org.uk

Henrietta concluded her presentation by telling delegates they were about to launch a campaign shortly and would like trade unionists to help

promote their issues. Further information e
mail: infor@changingfaces.org.uk.

Just a thought from the TUDA newsletter editor. Please let Richard Cook know! findcook@hotmail.com Richard's post address is 141 Vale Road Northfleet, Kent DA11 8BX. In an attempt to try to save TUDA money and speed up the provision of information, if you have e-mail (and we understand not everyone does), would any TUDA members like to have all future newsletters via e-mail? Thanks to those who signed up after reading recent newsletters. NB: Views expressed in this Newsletter are not necessarily those of all the trade unions represented on our Executive but reflect the opinion and policies of most of them. Our website www.tuda.org.uk also has lots of news and information. Please tell us of any issues you feel we should cover. We encourage people to submit both information and articles for inclusion so get writing if you can. TUDA Secretary Alan Martin, Membership Secretary Sherrell Martin. Co-Chairs Ju Gosling & Caroline Gooding can be contacted via our box number, BM TUDA, London WC1N 3XX. Email: mail@tuda.org.uk

ICTU Joint Disability Committee Seminar - Dublin

This was the first joint seminar held by the disability committees of the ICTU and NIC-ICTU entitled "Trade Unions - ensuring the rights of people with disabilities in the workplace" The seminar was held at the Crowne Plaza Hotel close to Dublin Airport on Friday 2nd and Saturday 3rd November attracting over 40 delegates from both the Republic and Northern Ireland.

Day 1 was chaired by Deirdre O'Connor, Chair of the Republic of Ireland Disability Committee. The first speaker was ICTU General Secretary David Begg. David welcomed delegates and commended the work of all involved with ICTU and NIC-ICTU regarding disability issues, particularly the Workway and Disability Champions projects. He talked about a number of ongoing campaigns including that for a 40 Euros per week 'cost of disability' payment for disabled workers and a payment equal to 100% of average industrial earnings for those disabled people for whom work is not possible. (by the way,

Angela Kerins, Chair of the National Disability Authority talked about barriers faced by disabled people getting into employment. She placed a lot of focus on the benefit trap and the fact that people lose benefits and more importantly their medical cards if they earn more than 120 Euros; this can be difficult to get back and presents a risk that many are not prepared to take.

Angela was followed by keynote speaker Gerard Quinn of the Irish Human Rights Commission talking about the UN Convention on the rights of disabled people. It was interesting to hear a view from the inside regarding the attitude to disabled people's rights from countries around the world tinged with a hint of some of the possible motives behind this. Questioned about which country he felt was most committed to change and reform his answer was quite clear; China, not the country that would have sprung into most people's minds.

The day's first politician was Gerry Mulligan who heads up disability issues in the Office of the First Minister. He reminded delegates of Ireland's commitment to a measurable improvement of the lives of disabled people by 2012. He talked about the 2005 Disability Discrimination Order, which is very similar in scope to the UK Disability Equality Duty requiring public sector organisations to positively promote employment of disabled people. In the Republic this has involved the introduction of a 3% quota system. For further information on the content of Gerry's input see

www.equalityni.org and www.nisra.gov.uk

After lunch Dave Parr, Disability Champion TUC Tutor gave a presentation about the Disability Champions project, its history and progress to date. Almost 700 Champions trained in England, Scotland and Wales. The concept was well received and there were a number of questions before the workshop activities to get the views of delegates.

Ann McKernon, Equality Commission for Northern Ireland talked about a number of cases that they had taken and reported both in and out of court settlements. Some of these bore little resemblance to what delegates felt would be reasonable compensation especially for the loss of a job.

Minister Dr Jimmy Devlin, T.D. Mental health & disabilities was the final speaker of the day. His speech commended the work of the trade unions and praised the ICTU for Workway and Disability Champions@Work. Day 2 was chaired by the NIC-ICTU Chair, Max O'Brien, and the first speaker was Ireland's Disability Champions@Work project worker Jane Clare. Jane explained the project and role from an Irish perspective. She has done a great job adapting the training course to suit the legal and support system for disability and disabled people in the Republic and will

do a similar task for the North. Her presentation led into some quality time for discussion and debate with delegates and speakers alike. This was an excellent second day following quite an intense day one which had lots of information for people to take in and not much time for discussion. In the middle of the session Pauline Ryder gave a presentation about the AHEAD project getting disabled people into supported employment. She touched on a number of issues that linked very closely to Disability Champions such as having a workplace advocate, understanding the social model of disability. This was Max O'Brian's final event as Chair of the NIC-ICTU disability committee and it was very fitting that it should be a joint venture. Tribute was paid to Max by a number of the participants who wish him well for the future.

I wish to receive more Information about TUDA: -

Please send post to: Alan Martin at BM TUDA, London WC1N 3XX ---

Name_____

Position in Trade Union (if applicable)_____

E mail: _____

Post Address (if applicable) _____

_____ Post
Code_____

Preferred format : Email - Audio -----

Normal Print 12 point ----- Large Print size -----

BSL Video----- Braille -----

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NB: We recently raised our subscription rates for national unions in recognition of continued mergers. However, we have held our rates down for smaller unions.

Please make cheques payable to Trade Union Disability Alliance