

## **TUDA News February 2010**

### **TUDA Annual Conference and AGM**

24th April 2010 (for details click [HERE](#))

Registration 10.30am

11am – 4pm

Venue: LONDON, NCVO

The National Council for  
Voluntary Organisations

Regent's Wharf

8 All Saints Street

London

N1 9RL

Members and non-members –All Welcome  
Come and Join the Campaign!

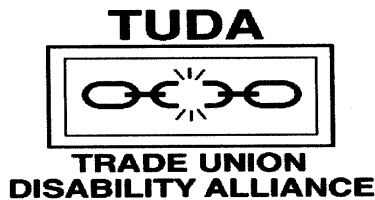
### **NEWS in Brief**

DSA – still waiting

'Vulnerable Workers' Event 29<sup>th</sup> March

Employment Discrimination rockets

### **Conference Reports:**



TUC Disability Conference Nov 2009 From  
Equality Bill to Act, 19<sup>th</sup> Nov 2009 5 – 11

### **TUDA articles:**

Personalisation

TUDA Annual Conference and AGM

### **Editor's Comments**

How to Join TUDA

Our website is [www.tuda.org.uk](http://www.tuda.org.uk)

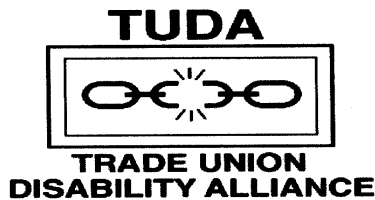
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## **Equality Bill: Main changes during House of Lords Committee stage, 19<sup>th</sup> February 2010**

### **Summary**

Many of the changes made during Lords  
Committee stage involved disability:

- requiring schools to provide auxiliary aids for disabled pupils, where reasonable;
- making clear that costs of reasonable adjustments cannot generally be passed on to a disabled person;
- making it unlawful to ask job applicants disability and health questions before job offers, except in prescribed circumstances;

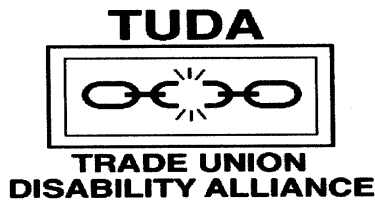


- strengthening the protection for disabled people taking or being awarded qualifications;
- making clear the need to take account of disabled people's disabilities in the public sector Equality Duty;
- increasing the potential number of wheelchair-accessible taxis.

## **ODI UN Convention on Disability Rights Awareness Raising Event – 30<sup>th</sup> March 2010**

The Office for Disability is holding an Awareness Raising Event about the UN Convention on Human Rights of Disabled People. **TUDA is represented and will report back in the next issue.**

In 2009 the UK ratified the UN Convention on the Rights of Persons with Disabilities ("the Convention") and its Optional Protocol. To help raise awareness about the Convention and what it means, the Office for Disability Issues is holding an event for disabled people and their organisations, to share information about the Convention and explore, for



example, what future work will be done in respect of implementation, monitoring and reporting.

## **NEWS in Brief**

### **DSA – still waiting**

Two in three disabled students in England who started a University course last Autumn are still waiting for allowances to pay for specialist equipment or the support of non-medical helpers.

BBC, 3rd February, 2010

### **'Vulnerable Workers'**

Part of the TUC UMF Vulnerable Workers Project:

#### **Protecting Vulnerable Workers**

Monday 29 March 2010

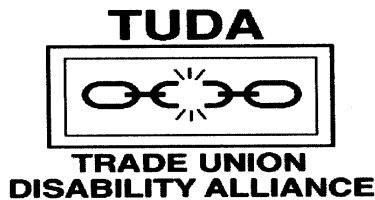
9.30am–4pm

Mechanics Institute,

103 Princess Street,

Manchester M1 6DD

- Briefing on employment rights for vulnerable workers

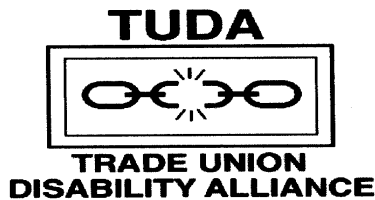


- Signposting new training and support for unions working with vulnerable workers
- Update on the new Pay and Work Rights Helpline
- Opportunity to meet enforcement agencies working in your region

The briefing will be free and is being run for union tutors, regional officials, full-time officers, and union workplace reps.

## **American Employment Discrimination Rockets**

The U.S. Equal Employment Opportunity Commission (EEOC) announced that 93,277 workplace discrimination charges were taken up with the federal agency nationwide during 2009. This is the second highest level ever, and cost over \$376 million in fines. Whether this is due to better enforcement under the new government or due to economic pressures is unclear. More details at: <http://www.eeoc.gov/eeoc/statistics/enforcement/index.cfm>.



## **TUDA report TUC Disability Conference 2009**

From: Polly Smith, UNISON and TUDA

**Minister for Disabled People, Jonathan Shaw, M.P.** opened conference. He spoke of "a fairer society - which would not be put on the back burner in time of financial crisis" and stating the obvious that "employment means independence and Disabled People have a huge impact in there organisations "And while the government will add £8 million over the next few years to enable Disabled People into employment the government will need to tackle people's perception of Mental Health and need to convince employers that Mental Health does come under the DDA.

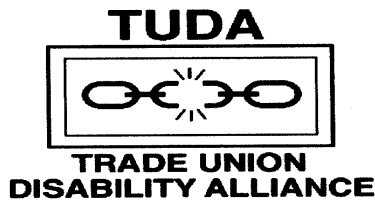
His speech was followed - by a sometimes hostile - Question and Answer session.

### **TUC Assistant /Deputy General Secretary**

**, Francis O Grady,** outlined the TUCs campaigning work, including

- raising the issue of Disability Related Hate Crime

- input into the Equality Bill

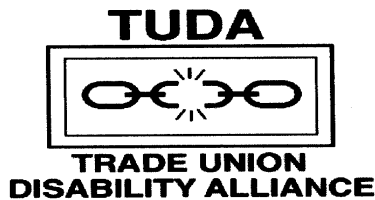


- campaigning for an increase in the Access to Work budget

Disabled People should not be forced into work and the new Welfare Bill was not fit for purpose. The TUCs positions that Disabled People should not be treated unfairly in the recession and that the TUC will continue to work with unions to support their Disabled members.

**Catherine Casserley, Barrister at Cloisters Chambers and a former Senior Advisor at the Disability Rights Commission.** She spoke on matters relating to the Equality Bill and the Disability Discrimination Act. Questions from the conference floor included those on No Detriment, Treating Disabled People more favourably and Disability Related Sickness Absence.

On the second day there was a panel discussion on " Disabled People and the Recession " ,I felt that this was in general directed at how the recession effected

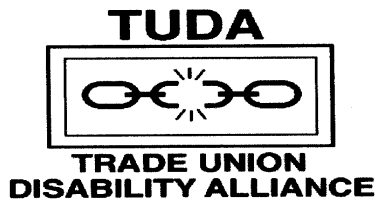


everyone and not how Disabled People would be effected.

**Caroline Ellis from RADAR**, was the last speaker, addressing conference on Independent Living and its real meaning - having the same rights and freedoms a non-disabled people. The motion going from this conference to the TUC in September, is "Discrimination, Recession and Welfare Reform," The Economic Crisis and the Recession debates were the highlights of conference, other debates included Mental Health, Occupational Health Assessments, Shared Surfaces, Protecting Disabled Workers Rights and Public Sector Promotion of Disability Equality.

**TUDA notes on Conference 19<sup>th</sup> November 2009, From Equality Bill to Act: Towards a Framework for a Fairer Future for All, Chaired By: Clare Cozens**  
Comment and summary by Marion Reichart, UCU and TUDA





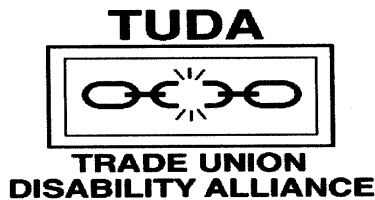
## Comment:

Disability Equality was not addressed in any detail. On two occasions the asymmetrical dimension of disability equality – that disabled people need to be treated differently according to requirements, enabled through reasonable adjustments – was flagged up. Instead, this conference couched discussions in pleasant, yet empty generalisations and was keen to persuade delegates that it is far better to go ahead with what we have than to analyse details of the Bill or propose unnecessary amendments.

Much praised general benefits, such as positive action, procurement and New Public Sector Duties are already enshrined in existing disability rights law and best practice.

Remedies to problems, such as caused by the Malcolm ruling appear vague. (Malcolm is clearly a wrong decision as it fails to understand the asymmetrical nature of disability rights).

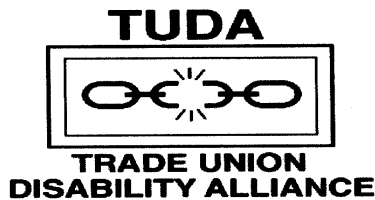
Is it really easier for **us** to know our rights if it is written in a single Act of Parliament with around 210 clauses, 15 parts, 28 schedules?



The meaning and impact of this unyielding beast of a Bill for disabled people remains unclear, yet the danger of being 'overlooked' is real, as much of the discussion, and failure to address issues such as pre-employment screening, demonstrated.

To unify by name, such as introducing 'indirect discrimination' across all protected characteristics, means little real progress for disabled people. The devil is in the detail, with much power given to Codes of Practice Guidance that will be produced and the eventual pronouncements by courts or tribunals. We should not rely on those to protect our rights if it is not spelled out in law. These instruments in my humble submission are all too unpredictable open to change and re-interpretation, especially in current economic and future political climates.

**Keynote Address: The Government's  
View by Jonathan Rees**



Reiterated the government's well known general position of "envisage fairer and more responsive Public Services" based upon "key principles of evidence, involvement, transparency, and capability". He noted a desire for culture change and engagement not tick box activities, but there was nothing new for disabled people.

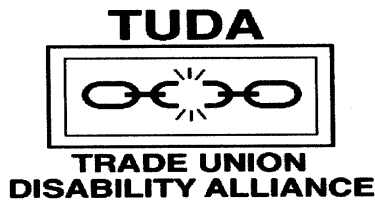
If you want to know more, go to [www.equalities.gov.uk](http://www.equalities.gov.uk)

### **Dr Phil McCarvill, Head of Public Sector Duties presented the Equality & Human Rights Commission' view**

The Commission welcomes Government's landmark Equality Bill as it ease the burden on public bodies and businesses, helps to tailor services to community needs, and target systemic inequalities.

The EHRC particularly supports key measures, which include:

- Extending women-only shortlist periods – Parliament, & other elected bodies
- Strengthening enforcement – wider recommendations for tribunals in discrimination cases

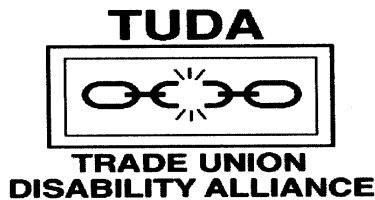


- Dual discrimination
- Harmonising all equality law
- Extension of protection from age discrimination
- Socio-economic duty
- New single Public Sector Equality Duty
- Gender pay gap measures
- Legislative lever on procurement
- Extension of positive action

Dr McCarvill confirmed that they wish to see no regression and worsening of rights. He stressed, for example, a desire to ensure that the Bill reflects the asymmetric nature of disability legislation, and recognise that achieving equality does not require the same provision for all groups. Looking ahead, the EHRC' role is to produce authoritative Statutory Codes of Practice Guidance in collaboration with stakeholders and strategic partners.

### **Codes, Regulations and Guidance**

"We need to ensure that relevant bodies know what they are expected to do and ensure



organisations are clear about the standards that they are expected to meet.”

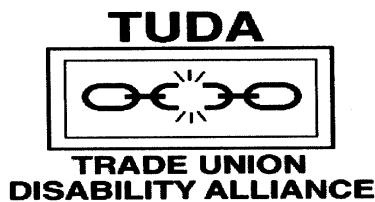
- Work already underway to develop statutory codes of practice and non-statutory guidance.
- Rooted in practice and service delivery
- Integrate equality into core practice -policy development and service delivery.
- Explain new requirements -incl. new mandates
- Published in advance to ensure full implementation

## **Mark Harper MP, Shadow Minister for Disabled people**

Mr Harper spoke about the opposition’s view. He was particularly keen to emphasis rights of older people and within the NHS.

## **Mental Health**

Mark Harper, MP repeated his call for the Government to support his amendment to the Constitutional Reform and Governance Bill. The aim of the amendment is to remove the discriminatory provisions in existing legislation which mean that an MP automatically loses his



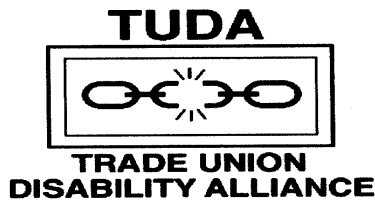
or her seat if detained under the Mental Health Act.

“Mental ill-health is still a taboo subject in Parliament as well as the work place and this must change. Mental ill-health affects as many as one in five of the working age population, and it is crucial that Parliament leads the way in promoting a better understanding of mental impairments.”

Mark Harper previously spoke out against means-testing ‘by the back door’ of Attendance Allowance and other disability benefits, like Disability Living Allowance (August, 2009).

**Amanda Ariss, Chief Executive, Equality and Diversity Forum** addressed The Public Sector & the Equality Bill. She spoke of local priorities, of adapting services and meeting local equality needs.

Amanda emphasised that the new public sector duty makes explicit reference to the fact that procurement is covered by this duty in clause 149(2). However, she raised the question whether the disability equality



element was as strong as it is now as only one duty covers all equality grounds in largely similar way.

Some changes to general duty:

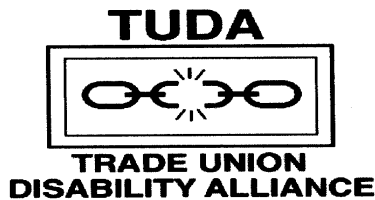
- ‘Advance’ rather than ‘promote’ equality
- ‘Foster’ rather than ‘promote’ good relations

Is disability element as strong as now?

Amanda stressed that we need to advance equality of opportunity not promote religion/a religion/ a sexual orientation. She stressed the importance of evidence in order to address most significant areas of discrimination and systemic inequalities. It is crucial to be proactive and if we measure issues they will not get lost.

**Mandy Wright, Associate Director, IDeA**

IDeA – the Improvement and Development Agency for local government works towards improvement so councils can serve people and places better. She introduced the Equality Framework for local government (EFLG): A national benchmarking framework with 3 levels – developing, achieving and excellent, which are measured against 5 performance areas:



- 1.knowing your community – equality mapping
- 2.place shaping, leadership and partnership
- 3.community engagement and satisfaction
- 4.responsive services and customer care
- 5.modern and diverse workforce.

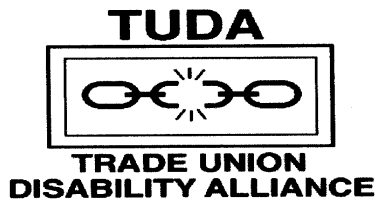
The EFLG is currently being adapted and adopted by Fire and Rescue, Police, NHS, ALMOs and other public bodies. Reaching out to, what Mandy described as 'vulnerable' people is necessary.

Mandy warned of two areas: The Equality Bill in a changing context means that there is a strong drive for increased efficiency with real savings, more shared services, and more standardised services. But how does this impact upon employment patterns and conditions? Furthermore, there is a need to assess potential differential impact of initiatives. She invites positive leadership from key stakeholders.

For further information

[www.communities.idea.gov.uk](http://www.communities.idea.gov.uk) to join the Equality Community of Practice



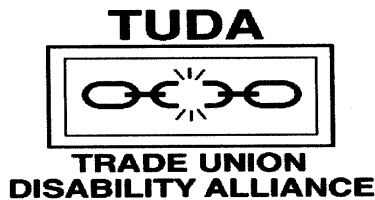


## **Carol Baxter, Head of Equality and Diversity, NHS Employers**

Carole argued that Equality Impact Assessments EqIAs are currently often misunderstood, a paper exercise and underused. In the same vein the new gender pay gap and positive action duties are all too confusing and seriously misunderstood. She introduced the NHS as an important employer supplying various statistics about its workforce and up-take of EqIAs.

### **Positive Action**

Carol offered definitions of positive action and outlined practical application to positive action as an integral part of a wider organisational corporate mission, workforce (including succession) planning and service development. Well grounded evidence, research and statistics were key to her presentation. Carol hopes for more coherent and collaborative approach to the introduction of positive action between organisations and across sectors. The NHS must ensure involvement of members of target groups in



the development and evaluation of positive action measures.

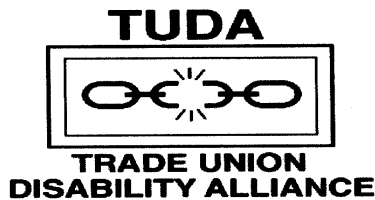
A meetings on programmes for East of England local authorities, was lead by **Cecilia Tredget, Director Improvement East.** For further information about the project:

[Cecilia.tredget@eera.gov.uk](mailto:Cecilia.tredget@eera.gov.uk) or  
[Rowena.kerr@eera.gov.uk](mailto:Rowena.kerr@eera.gov.uk)

**Dr Jagdish Sharma, Chairman, Hindu Council UK (Chair), Dr Theo Gavrielides, Chief Executive, Race on the Agenda and Dr Adam Marshall, Director of Policy, British Chambers of Commerce.**

Discussed the 'business case' for equality:

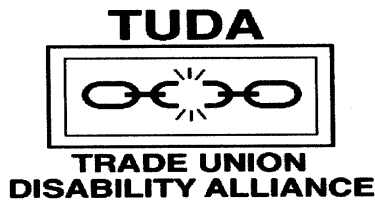
"The different perspectives and experiences of a diverse team can enable businesses to be more competitive in serving the needs of their customers and expand into new markets and activities. Businesses with a diverse workforce are more strongly placed to attract and retain quality staff, while well-led diverse teams can outperform homogenous teams by as much as 15%."



Key business concerns included a strong opposition to Clause 75 and moves toward mandatory gender pay audits. There was also concern about Tribunal jurisdiction:

### **Tribunal powers**

- Clause 120, section 2c – would vastly widen jurisdiction from individual case to whole workplace
- Negative consequences:
- Further undermine tribunal system for claimants and respondents alike – would affect speed, certainty, clarity, costs
- Tribunals lack info for workplace-wide recommendations
- May penalise entire company for actions of a single individual
- Confusing signals to businesses
- Conservative proposal (automatic GPA) also problematic
- Wary of amendments that would allow representative actions
- Business view: improve access to justice at Tribunal for both employees and employers.

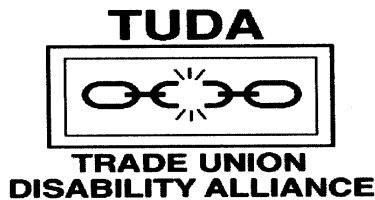


Best done by reinforcing Tribunals' core function: deciding on the facts in a specific case.

## **TUDA Article: Personalisation**

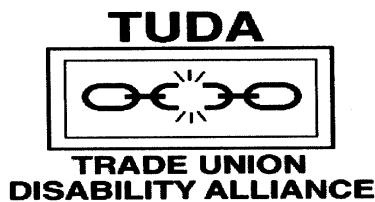
Traditional care staff is advised that this Personalisation Agenda will mean a shift in how they work. By putting the disabled person at the heart of decision-making and control, worker's roles will be as enabler, advocate, broker of other services and financial adviser. Research flags up staff-training issues, for example attitudes towards people with learning difficulties, older people or people with mental health issues or people with complex requirements. Only one in ten social workers felt it was appropriate to extend personalisation to all service users (2008).

Sheila Blair, UNISON and TUDA, warns: "Underfunding and fragmented private provision, plans to replace direct provision with "personal budgets" risk exposing users and staff to greater exploitation and abuse."



Organisational changes will further impact upon workers. Devon, Thurrock and Wirral councils have transferred some care management functions from social workers to non-qualified staff. At the same time, trained staff were left with managing more complex situations, and tasked with ensuring the quality and safety of support plans drawn up with service users by other staff.

Sheila further argues that assessment and budgeting for care support should be concerned with overcoming the barriers to equality: all that is put into disabled people's way of self-determination and independence. Personalisation recognises that with the right support, advice and information people make their own best decisions about life-choices. Services designed to maximise independence concentrate on the options for that. What the person wants to do with that independence is nothing to do with the local authority and should most definitely not be part of funding decisions.

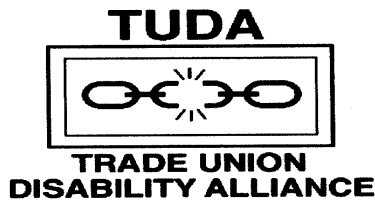


## **Trade Unions must take action.**

“Close working - both parties have the opportunity to identify potential issues for staff, management and service users and to resolve these matters at an early stage.

Where one exists unions should get a seat on the Programme’s Workforce Project Board which brings together all of the elements that are necessary for ensuring that the Council has in place a workforce, suitably qualified, trained and equipped to meet the needs of the future social care agenda.”

“In highlighting this issue TUDA has a unique role – as a trade union organization we are reflecting the situation as to how personalization may impact on trade union members. As an organization that “acts as a bridge between disabled people and the unions” we need to be mindful of the impact that personalization will have on our disabled members who themselves could become “employers” and how TUDA can support them through this process. While we need to respect the rights of Social/Health Care workers (to breaks, paid holidays and sickness, not a heavy workload) alongside that



is respect for the rights of Disabled People and their independence.”

### **A TUDA Briefing: Personalisation**

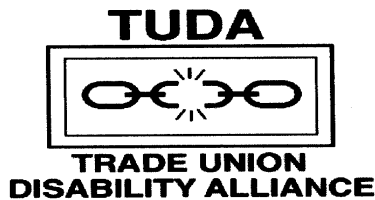
(February, 2010) is available. This is the second in the series, following TUDA Briefing: Single Equality Bill (December, 2009). For a copy, please contact Marion at [der\\_elefant@hotmail.com](mailto:der_elefant@hotmail.com)

### **TUDA Conference 2010, 24th April 2010**

### **TUDA Annual Conference and AGM**

For travel direction click [HERE](#)

**For articles, comments and feedback, please contact the TUDA newsletter editor. Richard Cook:**



Richard Cook post address is 141 Vale Road  
Northfleet, Kent DA11 8BX Or email  
[findcook@hotmail.com](mailto:findcook@hotmail.com)

In an attempt to try to save TUDA money and speed up the provision of information, if you have email (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.

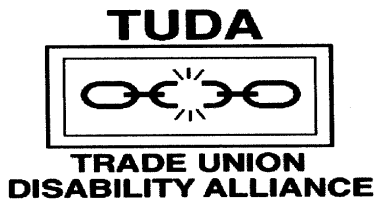
TUDA news has lots of news and information. Please tell us of any issues you feel we should cover. We encourage people to submit both information and articles for inclusion so get writing if you can. Email me at  
[findcook@hotmail.com](mailto:findcook@hotmail.com)

## **TUDA Contacts**

**TUDA** Secretary Sheila Blare, Membership Secretary Sherrell Martin can be contacted via our box number, BM **TUDA**, London WC1N 3XX. Email: [mail@tuda.org.uk](mailto:mail@tuda.org.uk)

## **How to join TUDA**





**I wish to receive more Information  
about TUDA:**

Email: [mail@tuda.org.uk](mailto:mail@tuda.org.uk) or send this  
form and

Write to: Membership, **BM TUDA, London  
WC1N 3XX**

**Name**

\_\_\_\_\_

**Trade Union \_\_\_\_\_ Position (if  
applicable) \_\_\_\_\_**

**E mail:**

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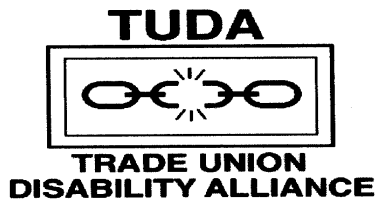
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- 5. National Unions with 100,000 members   
or less £100.00
- 6. Unions with 100,001 to 500,000   
members £150.00
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£200.00

Please make **cheques** payable to Trade Union Disability Alliance.