

Disability Discrimination Legislation

Does it work in the UK? It's time for change.

by

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Introduction

It seems appropriate to publish this document on **International Day of Persons with Disabilities, 3rd December 2012** (see Appendix 1). The theme for the 2012 event is:

“Removing barriers to create an inclusive and accessible society for all”.

I was born in 1953 and diagnosed with Spina Bifida. 59 years later, I continue to live my life with a positive “can do” attitude coping daily with challenges put before me. Due to the effects of the Spina Bifida on my life, I have always had limited mobility and now use a wheelchair almost all of the time.

When the Disability Discrimination Act 1995 was introduced, I “qualified” as a person with a disability for the purposes of the Act as I have a physical impairment which has a substantial and long-term adverse effect on my ability to carry out day-to-day activities.

While many aspects of the Disability Discrimination Act 1995 (now Equality Act 2010) protect me, I have paid particular attention to the legislation which requires service providers to make reasonable adjustments for disabled people.

The DDA stated that a service provider was required to take reasonable steps to:

- change a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to make use of its services.
- provide an auxiliary aid or service if it would enable (or make it easier for) disabled people to make use of its services.

In addition, where a physical feature made it impossible or unreasonably difficult for disabled people to make use of services, a service provider had to take reasonable steps to:

- remove the feature; or
- alter it so that it no longer had the effect; or
- provide a reasonable alternative method of making the service available.

That legislation was introduced in phases as follows:

- Since **2 December 1996** - It has been unlawful for service providers to treat disabled people less favourably for a reason related to their disability.
- Since **1 October 1999** - Service providers have had to make 'reasonable adjustments' for disabled people, such as providing extra help or making changes to the way they provide their services.
- Since **1 October 2004** - Service providers have had to make other 'reasonable adjustments' in relation to the physical features of their premises to overcome physical barriers to access.

That legislation was revised in 2005 and incorporated into the broader Equalities Act in 2010, where we were led to believe disabled people would be even more protected.

As far as the part of interest to me in making services accessible, I feel this has made no difference whatsoever, so we still have relatively toothless legislation which is complex for disabled people to understand and implement to make life easier.

Since 2005, I have actively monitored the progress of service providers in complying with the legislation and noticed that many have ignored their obligations. While always striving to encourage service providers to recognise the commercial benefits of attracting in excess of 10 million disabled people to use their services, there have been occasions where I have lodged claims for discrimination. I did this not for personal financial gain, but to demonstrate the complexity of the legislation and to achieve change.

Throughout this time, I have campaigned for change to make certain aspects of the legislation enforceable by an established body, as is the case with Health and Safety legislation.

That work continues through further campaigning and training I provide to help people appreciate the issues faced by disabled people.

I propose to illustrate the complexity of the legislation by outlining the cases I have taken. Apart from two cases, I don't propose to name the service providers. Indeed, in a couple of the cases, I'm barred from doing so as part of the settlement which was reached.

I aim to show how the UK's complaints-based legislation, where the onus is on the disabled person to take private action against businesses, usually major organisations, is both stressful and often at personal financial risk.

Finally, I will make my recommendations and hope that readers will take on board my message such that appropriate and more effective legislation can be established in the not too distant future.

Discrimination Cases

To date, I have initiated 10 actions against 8 different organisations. You can conclude, therefore, I have taken action more than once against the same organisation.

Three of the cases were filed in the Small Claims Court before a settlement was reached, one of which required me to attend a hearing at which a judge found in my favour.

The cases were initiated against:

1. Thomas Cook Airlines
2. London Underground
3. The operator of a mainline railway station (Station X)
4. An international hotel chain (Hotel X)
5. The same international hotel chain (Hotel Y)
6. A major bookstore chain (Store X)
7. An International fast-food chain (Restaurant X)
8. Another international fast-food chain (Restaurant Y)
9. The same major bookstore chain as 6 (Store X)
10. A national pub chain (Pub X)

In the first 8 cases, I was assisted by a Disability Rights Caseworker, a post funded by the Equality and Human Rights Commission (previously Disability Rights Commission), based at Newcastle Law Centre.

Each of the Caseworkers provided excellent support that was essential in supporting me. Many other disabled people no doubt also benefited from the service provided by Caseworkers located throughout the country in their discrimination cases. The Caseworkers also provided advice and training to businesses.

Sadly, as time went on, funding for the role began to reduce, so the ability to provide an effective, local service started to diminish. I believe the local Caseworker role no longer exists and support for cases by the EHRC is now handled centrally.

My final 2 cases were handled by Unity Law, a firm of solicitors based in Sheffield specialising in disability discrimination legislation, where the action was supported by a "no win, no fee" insurance policy. This makes it practical for any disabled person to initiate action without fear of incurring legal costs, should a case be lost.

1. **Thomas Cook Airlines**

In December 2005, I booked a Thomas Cook holiday through a local travel agent to Cyprus with my wife and stepson, who was 12 at the time. The holiday was in April 2006 flying from Newcastle to Paphos. The case was based on the fact that I couldn't pre-book seats, an option offered to non-disabled passengers.

I need a seat near the toilet on a plane and Thomas Cook had 8 seats adjacent to toilets, which would be suitable for me. As is often the case, passengers may pay a supplement to pre-book seats so a group could sit together or perhaps to have additional legroom. This was the case here, but Thomas Cook did not permit the 8 seats near the toilet to be booked. They said they'd be allocated on a priority basis 3 days before the flight departed.

This meant I was unable to pre-book required seats for my family and me, in the same way that other passengers could. I considered this to be discrimination and initiated action in May 2006 after returning from my holiday. In the end, I sat in the seats I needed with my family nearby, but I didn't find out I had been allocated these seats until hours before the flights departed. This meant the build up was somewhat stressful.

There had been a chain of unsatisfactory correspondence between myself and the airline's senior management in the months prior to departure, so on my return I felt it appropriate to initiate action and was helped by the DRC Caseworker to prepare the necessary paperwork.

The lengthy process began in May 2006, when I was required to pay an initial fee of £108 to file the claim through the Small Claims Court. As Thomas Cook decided to defend the case, I had to pay an additional £130 as the case proceeded.

I was fortunate to acquire the services of a specialist barrister who acted for me on a "pro bono" basis, otherwise the case would not have proceeded to go to court. It was eventually heard in the Small Claims Court in Newcastle in February 2007, when the judge found in my favour and I was awarded damages.

Details of the case and the service that was provided by the Disability Rights Caseworker are available in the public domain in the Law Centre Federation Annual Report 2006/07 (see Appendix 2) and http://www.lawcentres.org.uk/uploads/LCF_Annual_Report_06_07.pdf.

Subsequently I met and discussed the complexities of the case with the then MP for Stockton South, Dari Taylor. We met when we were both giving speeches at a Leonard Cheshire Ready To Start Project Launch meeting in Middlesbrough in April 2007. Dari invited me to meet with her in London and subsequently arranged for us to meet Anne McGuire, the then Disability Minister. While sympathetic, the Government's focus appeared to be on

simplifying the process for taking action rather than finding a better way to enforce the law.

I'd like to think that subsequent positive legislation changes as to how disabled passengers were treated during air travel were influenced by the outcome of this case, although air travel for disabled people remains an issue for many.

2. Station X

This claim and the next, against London Underground, both occurred on the same day in November 2007.

Although I had to file a claim in the courts at a cost of £108 due to delays in settling, I was eventually offered an out of court settlement plus costs. I am permitted to talk about the incidents, so long as I don't mention the company or the settlement amount. I am respecting that constraint.

The case is based on the fact that I wanted to get off a train at a main line station near where I was staying at around 10.30pm after a visit to London. As I travel in my wheelchair, I need assistance, which is usually available when pre-booked. On this occasion, the service ceased to be available at the station at 8.00pm and no alternative was offered, despite the train stopping at the station.

The ability to alight from the train was affected as a result of my disability, so with no reasonable adjustment being offered, it was considered to be a case of discrimination according to the DDA legislation.

Once again, the Disability Rights Caseworker supported me in this case, handling the correspondence and negotiating the settlement.

Soon after the incident, a different train operator took over running the service. They now offer a free taxi service from the next nearest station, which, I agree, is an acceptable reasonable adjustment.

3. London Underground

As a consequence of the inability to travel from the main line station described in the previous case, I researched the options to travel part way by London Underground. I identified a possible route on the Northern Line terminating at King's Cross, which offered me a short push in my wheelchair to the British Library, where I was attending an event. I contacted the London Underground Help Line and was told that I would be able to make the journey from Woodside Park, an accessible station, to King's Cross.

When I arrived at the station, my first challenge was crossing the line from where I parked on the northbound side. That was going to make it easier for me when I returned later in the evening. I eventually found the Station Master who advised I would need to travel north two stations to High Barnet (which

wasn't an accessible station at the time) at the end of the line and then travel back south. He told me that the driver would confirm at High Barnet that the train was going to King's Cross, as alternative trains took different routes in Central London.

Although this lengthened my journey time somewhat, the driver confirmed the train would take me to King's Cross, as promised, and I was just going to arrive in sufficient time to be at the start of the event at the British Library.

Unfortunately, on arrival, I discovered the station platform didn't have a lift! I was very distressed and had no alternative but to return to Woodside Park, missing the event at the Library.

Given the original Help line operator, the Station Master at Woodside Park and the train driver, all knew I was travelling to King's Cross, which was an inaccessible station on the Northern Line, I felt there was a case of discrimination.

The DRC Caseworker helped me once again to submit the claim. London Underground accepted responsibility and in June 2008, an acceptable settlement was agreed.

I am delighted that many more stations are now accessible on the London Underground system and additional support services offered during the Olympic and Paralympic Games in August and September 2012 have remained in place.

4. Hotel X

I was attending a meeting at this hotel in April 2008 and was horrified to encounter a number of incidents that could be considered discrimination within 30 minutes of my arrival.

Doors weren't wide enough for my wheelchair, a platform lift taking me to the accessible toilet was out of order and the alternative route, which meant going outside the hotel, was blocked by a skip positioned on a dropped kerb.

As an alternative to taking action, the DRC Caseworker offered my company's disability awareness training, at my request. I was keen to work with this organisation. He was assured they already had "award winning" training in place, although these incidents suggested otherwise.

Compensation was sought as an alternative, and in January 2009, when the 6 month period to make a claim had lapsed due to their delays in responding, I received a nominal settlement. I accepted this, as I had already initiated a more clear-cut case against another hotel in the same chain.

5. Hotel Y

This case began in November 2008 after I had attended a birthday party for a friend at the hotel. I was initially dissatisfied with the stair lift that enabled me to reach the “accessible” toilet. There was no way to communicate with staff for assistance apart from going to the busy small bar adjacent to the function room. I hate having to ask someone if I can go to the toilet, something most people last had to do in primary school.

When I eventually got to the toilet, my wheelchair got stuck in the small cubicle as the door opened inwards.

I had been to this hotel several years earlier and nothing had changed since, despite, as was mentioned in the previous item, this hotel had “award winning” disability awareness training. As an international hotel chain, they are widely approved by many disability organisations for having accessible hotels. My experience suggests the contrary on several occasions, although, to be fair, I have stayed at some of their hotels and been very satisfied with the facilities and service.

The chain largely ignored most of the correspondence sent by the DRC Caseworker and in April 2009, I was forced to file a claim in the Courts at a cost of £110 as the six month maximum period from the incident was about to lapse.

An out of court settlement was agreed in late 2009, which included holding a meeting with management in December. At the meeting, which I attended with a colleague who was an access auditor, they showed that a new toilet had been installed, which pleased me. Other recommendations were made, including the suggestion that bells/buzzers be installed adjacent to lift. I was advised in June 2010 that they had been installed, but I’ve not been back yet to confirm this.

6. Store X

Store X was the only shop in the entire Metro Centre in Gateshead with an inaccessible area. Well before October 2004, when the DDA stipulated barriers should be removed, this bookstore had a gallery level only accessible by 6 steps.

In April 2008, I initiated an action against them because of this. In response to a letter sent by the DRC Caseworker, they came up with a possible reasonable adjustment, suggesting staff would bring down books requested for me to browse at the ground floor level.

I wasn’t particularly happy with this, as the concept of a bookstore layout is to enable customers to browse books displayed. I decided to put their proposal to the test in December 2008, which proved unsatisfactory. A member of staff

actually suggested I visit their store in Newcastle, which was several miles away. I certainly don't consider that to be a reasonable alternative!

I was attempting to resolve the situation amicably and suggested they install a platform lift, but before they agreed to do that, they advised me in February 2009 that they were going to close the gallery level.

This effectively removed the barrier preventing access to the books, so I was satisfied. I invited them publicly to announce this decision had been made following requests from disabled customers, but they ignored my request, which would, I feel, have gained them some respect.

In June 2009, I noticed that the floor was closed and the computer and business books previously on the gallery level were now upstairs, so I could browse like other customers. I received no settlement, which wasn't an issue, as I'd achieved the outcome I was seeking.

In September 2010, I re-visited the store and noticed the gallery floor had re-opened. Computer and business books were once again located there, making them inaccessible to me and other wheelchair users. See action that followed later.

7. Restaurant X

There were a number of steps at the entrance to this restaurant in Newcastle belonging to a major international fast food chain. There was a sign on the glass door at the top of the steps inviting disabled people to contact a member of staff for assistance. A good idea, under the circumstances, but there was no way to do this. There was another entrance a few yards down the road, but there were still steps to ascend to reach the serving counters where staff were located.

The DRC Caseworker wrote a letter and they compensated me with 4 meal vouchers, worth about £20! They advised they planned to install alternative access and indicated an interim "reasonable adjustment", but I had a further unsatisfactory outcome having tested that. A further letter was sent, which resulted in another meal voucher. However, this time they did install signage externally advising entry via the level entrance and a button to call for assistance at the foot of the steps inside the restaurant.

When I tried this adjustment, staff came to help and took me into the top level of the restaurant via a third entrance, which was the fire exit. This was not ideal, but under the circumstances, it was a reasonable alternative to providing the service they offer.

8. Restaurant Y

There was a large step at the entrance to the premises of this different international fast food chain in Newcastle, but no signage offering alternative access options. The DRC Caseworker sent a letter during 2009. Their initial response was seeking more information about the time I tried to enter, to which we responded.

We had no further correspondence from the company. A few weeks later, I noticed they had placed a virtually unreadable sign on the window at the level of the steps. It stated that there was no wheelchair access at this restaurant and provided directions to the nearest alternative, which was well over half a mile away. I didn't feel that was a reasonable adjustment.

I planned to follow up this claim later in 2009, when I noticed the restaurant had closed. A rather drastic action to remove a physical barrier, I thought! No further action was taken. It is now a building society branch.

9. Store X (part 2)

As stated earlier, in September 2010, I re-visited Store X and noticed the gallery floor had re-opened. Computer and business books were once again located there, making them inaccessible to me and other wheelchair users.

I was very angry, as in effect, they had reneged on the previous agreement to close the gallery floor in 2009. By now, I'd become aware of a law firm called Unity Law, based in Sheffield, who were working alongside a leading barrister from Nottingham, who specialised in Disability Discrimination legislation.

They were representing clients they felt had a justifiable claim for discrimination on a "no win, no fee" basis, which was protected via an insurance policy taken out by the client.

I decided to put this process to the test and met both the barrister and solicitors from the law firm, before deciding to engage them to represent me in a claim against the owners of Store X.

It was a relatively clear-cut case, having previously agreed in writing to me to close the gallery floor, and a damages settlement was agreed in May 2011.

10. Pub X

In April 2010, a new pub opened in Newcastle belonging to a major national chain. I've normally found the company's pubs to be accommodating towards customers who are wheelchair users like me. Part of the building had previously been a pub, while the rest of this building had been a couple of adjacent shops and a restaurant.

I visited the pub with friends, expecting it to be suitably accessible for me, but was surprised to find a platform lift near a ground floor seating area which led up to where the bar was located and, more importantly for me, the wheelchair accessible toilet.

Expecting to need a visit to the toilet at some time during the evening, I decided to test the lift, but it was switched off. There was a sign adjacent to the lift inviting me to ask a member of staff to assist, but no bell or buzzer to call for assistance. Eventually, I found a member of staff, who told me they'd find out about the lift.

I returned to my friends and a few minutes later, the duty manager came and said the lift was out of order. They were waiting for an engineer to visit with a part. Not a great start for a new pub that had been open only a few weeks, I thought.

We had expected to go elsewhere after finishing our round of drinks, when the duty manager returned to say they'd managed to get the lift to work. I was delighted at that, so we stayed and later in the evening, I paid a visit to the toilets.

It proved to be a somewhat eventful journey! Supervised by a member of staff (you will recall earlier, I said I hate having to ask someone to take me to the toilet), I ascended in the platform lift, but the door wouldn't open at the upper level, as there were items stored outside the lift door causing an obstruction. They were eventually cleared, so I could make my way to the accessible toilet. It turned out to be located right at the back of the pub. En route, I had to negotiate past a crowded bar and also ask two people to stand up and move chairs that were obstructing the pathway to the toilet. It was fortunate that when I eventually arrived at the toilet, I had a RADAR key, as it was necessary to use one to gain access.

The toilet cubicle was very small, but suitable for me as I didn't need to transfer, although it would be unsuitable for anyone who needed to do so from the side.

I returned to my friends, disappointed at the poor facilities. The building must have been virtually an empty shell when the re-development began. Why was there no accessible toilet on the ground floor level and why was there no ramped access up to the bar level, which I felt could have been achieved?

Rather than take any discrimination action, which I felt was justified, I decided to investigate the planning permission that had been granted by Newcastle City Council. Planning applications, other interim documentation and correspondence as well as the final decision are available in the public domain in all Council websites, so it was relatively easy to investigate the process that had taken place in this instance.

I discovered this raised level, where the bar and accessible toilets were located, appeared to be considered as the ground floor. For me, you don't need to go up steps or a platform lift to reach the ground floor of a building.

The Design, Access and Heritage Statement submitted in July 2010 clearly states that a "disabled unisex accessible WC will be provided on the ground floor" and that "right hand transfer will be available within reasonable travel distances". I dispute the fact that either of these was provided.

Plans were approved in September 2010 and the final clause in the Grant of Planning Permission document states:

"If you are applying for planning permission to build and/or provide a service, you should note the application of the Disability Discrimination Act 1995. You are advised to seek professional advice to ensure that you meet your legal obligations under the Act, especially with regard to Part III thereof."

As I've subsequently discovered, this appears to be a fairly standard clause included in planning approvals, but no action appears to be taken by the Council to confirm that professional advice has been requested or acted upon. I've been unable as yet to establish whether this is custom and practice with all local authorities.

Seeking to understand how the Council approved the plans, I contacted my constituency Council member, who met me a few weeks later at the pub to see for herself the issues I'd encountered.

On that occasion, I actually got stuck in the platform lift during the descent, but fortunately the Councillor was with me and managed to seek assistance.

She arranged for me to meet with a senior Council Executive responsible for licensing, but I decided to take no further action at that time following that meeting.

In November 2011, I visited the pub again with a friend, hoping that things would be better, but alas this was not the case. The lift was once again inoperable without assistance. I found a member of staff, who got the duty manager to assist. She attempted to operate the lift without success. Eventually, after about 5 minutes, another member of staff managed to get it working and I made my way to the toilet. Nothing had changed since my first visit.

Confident following this third visit in which I felt I'd experienced discrimination in this poorly designed establishment, I decided to write initially to the Area Manager, offering to meet and explore how I could work in a consultancy capacity with the organization to help them overcome this kind of shortcoming.

By February 2012, I'd not received any response, so I sent a recorded delivery letter to the company's Chief Executive. I received a response this time, but was dissatisfied.

By the end of March, having been unsuccessful in reaching an amicable solution, I decided to invite Unity Law to consider if I had a case for making a claim for discrimination. The view from the barrister was that I had a reasonable chance of success, so we proceeded, once again protected by the "no win, no fee" insurance policy.

A lot of correspondence passed back and forth between the legal representatives of the parties, the defendant remaining adamant that there was no case to answer.

By May, when the six-month period from the last incident was about to lapse, it became necessary to issue proceedings in the Courts. Eventually, by September, the company had agreed to install a bell next to the lift to attract attention of the staff, to improve their training programme and offer me an amount of money in settlement of my claim.

I reluctantly accepted, but it still took until the end of November for them to send me a cheque, which I consider disrespectful.

About a month ago, I returned to the pub to have lunch with a friend. Yes, there was a bell at the lift, which I pressed but no one came. When I did find a member of staff, there were some problems operating the platform lift and I again had to ask someone to move a chair to enable me to get through to the toilet, which had not changed since my earlier visits.

I would imagine the takings over that lunch period in that busy pub were more than I received in compensation. Did they really learn anything from this episode, or was I a minor inconvenience?

After consultation with Unity Law, it was agreed that no further action would be taken, as I now proposed to take my campaigning to a new level, commencing with this report.

I've not lost a case, but have I really won? In the majority of the cases, I've received some form of compensation, which has helped fund my campaigning, but have my efforts to date really made any impact?

By settling out of court in all but one of the cases, the details are not in the public domain and don't create any kind of legal precedent to influence the outcome of any cases taken by other people.

The legislation is set up in such a way that if I'd rejected any offers of compensation in favour of going to court and having a judge make the decision, I'd potentially incur the legal costs of the defendant if the judge found in their favour, or even if he or she found in my favour, but felt the compensation offer previously made was fair.

In 2003, I was invited to support a colleague working for company, by speaking at seminars urging businesses to take action to improve accessibility ahead of the 1st October 2004 deadline. They anticipated numerous court actions creating precedents, which would lead to greater accessibility. This just has not happened.

If disabled people have been taking cases in the same way I have done, the outcomes are not publicly available, which is why I've written this report. I hope it will encourage more people who have taken action to share their stories and get behind my campaign for the change I feel is necessary.

Recommendations

It would be easy for me to say “something should be done” and leave it to the politicians and established disability charities and groups to continue to campaign as they’ve done for many years.

I don’t have the patience to wait any longer and propose to use this report, appropriately published on International Day of People with Disabilities 2012 in a year when the theme is

“Removing barriers to create an inclusive and accessible society for all”

as a springboard to encourage more rapid change in the UK, as well as in other countries in the World.

I invite politicians, those charities and groups, business leaders and anyone interested in better accessibility for disabled people as well as the increasingly growing population of older people with mobility and other access issues to publicly debate and support my recommendations.

The recommendations don’t involve re-inventing the wheel, as I propose the UK adopts (adapts) legislation already in place elsewhere in the World, namely in Ontario, Canada.

During my global research seeking to identify best practice in the last few years, I discovered the **Accessibility for Ontarians with Disabilities Act, 2005**.

Ontario has a strategy for full accessibility for people with disabilities by 2025 and their legislation is established to develop, implement and **enforce** standards with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises.

One of 5 standards, relating to Customer Service, is already established and all businesses with more than 20 employees are required to file a report on how well they are doing in delivering against this standard by the end of 2012.

Other standards are being developed relating to Employment, Information and Communications, Transportation and the Built Environment. They are constantly reviewing progress as they move toward their 2025 target.

I've corresponded with Alfred Spencer, a Director at Ontario's Ministry of Community and Social Services. He was most cooperative and in November 2011 wrote:

"We're happy to share our experiences with our international colleagues. The AODA became law in June 2005. Under this landmark legislation, the government of Ontario will develop mandatory accessibility standards that will identify, remove, and prevent barriers for people with disabilities in key areas of daily living:

- 1. Customer Service - addresses how organizations provide their goods/services in an accessible manner, hence influencing attitudes and behaviour*
- 2. Information and Communications - makes the ways organizations send and receive information and communications accessible to persons with disabilities*
- 3. Employment - requires organizations to have a process on how to accommodate persons in activities such as interviews, workplace duties, etc.*
- 4. Transportation - addresses ways to prevent and remove barriers to transportation so that everyone can more easily travel in Ontario*
- 5. Built Environment - addresses access to and within buildings and outdoor spaces (currently under development)*

The standards will apply to all private and public sector organizations across the province. The province collaborated with the disability community, as well as public and private organizations to develop these accessibility standards.

We have a vision for an accessible Ontario by 2025. The standards have been developed to be implemented in stages over a 20 year period. This phased-in approach should reduce burden on organizations by allowing them to integrate accessibility planning into their regular business processes.

Disability impacts the lives of many individuals around the world and the number of people with disabilities is increasing and will continue to increase as the population ages. Improving accessibility is the right thing to do to improve the daily living experiences of people with disabilities. It is also the smart thing to do for the economy. In Canada, it is estimated that people with disabilities have a spending power of \$25 billion annually. This number ought to be even more substantial in England given it has a population almost four times that of Ontario. People with disabilities also represent a large pool of untapped employment potential.

The Accessibility Directorate of Ontario (ADO) is responsible for implementing the AODA by developing and enforcing accessibility standards through regulation for approximately 360,000 private and non-profit sector and 1000 public sector organizations across Ontario. We raise public awareness and support organizations to comply by providing public education and outreach. Specifically, we disseminate information, resources, and tools to a wide range of stakeholders in the public, private, and non-profit sectors."

He signposted me to their website, www.ontario.ca/AccessON, which provides a wealth of information on accessibility and Ontario's accessibility legislation. It also includes resources and tools to help organisations implement accessibility standards.

Finally, he invited me to contact him personally, which I've done on several occasions, and he's indicated a willingness to help our journey towards accessibility in the UK.

Two years ago, Madeleine Meilleur, who was then Minister for Community and Social Services responsible for the Act said:

“As we continue to implement this important piece of legislation, our approach will make Ontario a world leader in accessibility. Ontario will be the first jurisdiction in the world to move from complaints-based legislation to a modern regulatory regime in the area of mandated accessibility. We will take this journey together – government, broader public sector, private businesses and the public. And together we will build a stronger, more inclusive society for us all.”

I have hopefully demonstrated that the UK’s complaints-based approach where disabled people must be the legislation enforcers is complex and ineffective. It’s not pleasant to initiate legal action, just because you can’t use the toilet.

If local authorities continue to approve planning applications with no more than a recommendation to seek professional advice about compliance with existing legislation, we’ll continue to construct buildings with inaccessible facilities.

When does the UK propose to provide a fully accessible society for disabled people?

Ontario already has 7 years start on us with a 2025 target. Can we afford to wait much longer with unsuitable legislation?

I’d like to see momentum build for a major change in strategy here in the UK, learning from what Ontario has already done and perhaps we won’t be too far behind them.

I hope this report will be widely distributed and will trigger the urgent public debate that is necessary. It’s time to speak up and demand action.

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wheelchair users of the World collaborating by sharing information, knowledge and experience

www.internationalwheelchairday.com

1st March – a day when wheelchair users celebrate the freedom a wheelchair provides while reflecting on the challenges that still exist

Appendix 1

International Day of Persons with Disabilities, 3rd December 2012

Theme: Removing barriers to create an inclusive and accessible society for all

Background

Over one billion people, or approximately 15 per cent of the world's population, live with some form of disability.

Persons with disabilities, "the world's largest minority", often face barriers to participation in all aspects of society. Barriers can take a variety of forms, including those relating to the physical environment or to information and communications technology (ICT), or those resulting from legislation or policy, or from societal attitudes or discrimination. The result is that persons with disabilities do not have equal access to society or services, including education, employment, health care, transportation, political participation or justice.

Evidence and experience shows that when barriers to their inclusion are removed and persons with disabilities are empowered to participate fully in societal life, their entire community benefits. Barriers faced by persons with disabilities are, therefore, a detriment to society as a whole, and accessibility is necessary to achieve progress and development for all.

The Convention on the Rights of Persons with Disabilities (CRPD) recognizes that the existence of barriers constitutes a central component of disability. Under the Convention, disability is an evolving concept that "results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others."

Accessibility and inclusion of persons with disabilities are fundamental rights recognized by the CRPD and are not only objectives, but also pre-requisites for the enjoyment of other rights. The CRPD (Article 9, accessibility) seeks to enable persons with disabilities to live independently and participate fully in all aspects of life and development. It calls upon States Parties to take appropriate measures to ensure that persons with disabilities have access to all aspects of society, on an equal basis with others, as well as to identify and eliminate obstacles and barriers to accessibility.

In spite of this, in many parts of the world today, lack of awareness and understanding of accessibility as a cross-cutting development issue remains an obstacle to the achievement of progress and development through the Millennium Development Goals, as well as other internationally agreed outcomes for all.

The commemoration of International Day of Persons with Disabilities in 2012 provides an opportunity to address this exclusion by focusing on promoting accessibility and removing all types of barriers in society.

Extract from United Nations website: <http://www.un.org/disabilities/default.asp?id=1597>

Appendix 2

Extract from Law Centre Federation Annual Report 2006-07

DISABILITY RIGHTS PROJECT



THE DISABILITY RIGHTS PROJECT FOUNDED BY THE DISABILITY RIGHTS COMMISSION (DRC) DEMONSTRATED ONCE AGAIN THE DIFFERENCE THAT LAW CENTRES MAKE TO PEOPLE'S LIVES

Since the project started in December 2005, Law Centres have delivered national casework and legal education tackling disability discrimination, particularly in relation to Part III of the Disability Discrimination Act. A total of 544 cases have been dealt with, of which 347 are Part III specific.



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The project structure was created using a regional model mirroring the Law Centres ethos of access to justice, by placing the service in the middle of the communities that needed them most. Disability Rights Workers were employed in 23 Law Centres: Gateshead, Newcastle, Trafford, Rochdale, Kirklees, Sheffield, Chesterfield, Leicester, Coventry, Luton, Avon & Bristol, South West London and Camden Law Centres plus a fourteenth based at The Disability Law Service to cover the South East and provide additional support on a national basis.

The focus of this project included the provision of legal education for the general public and service providers about their rights and obligations with regard to reasonable adjustments for disabled people. Over 1000 hours has been spent delivering a legal education service to organisations from local NGOs to national organisations. As expected, the success of the legal education has led to an increase in individual cases dealt with by the Disability Rights Workers. DRC and the LCF have been able to ensure a high level of visibility for the project and have used evidence learned



Disability Rights workers: Iqbal Akhmed, Jennifer Bell & Tim Astley

from the experiences of our clients to influence policy at a national level. Statistics from the project which showed that cases of disabled clients tend to take longer than average were used in the debate about the moved to fixed fees for legal aid.

With the work of our funder and partner the DRC being taken over by the new EHRC, we were pleased when funding was extended by six months to March 2008. We are looking forward at ways we can use the learning from this project to develop and extend our disability into related and other equalities areas with them.

BUSAYO AKONYEMI,
Disability Rights Project Manager

CASE STUDY Legal Education

A Disability Rights Worker ran a workshop at the Prison Reform Trust conference "No one knows: Offenders with Learning Difficulties and Learning Disabilities" in March 2007. The group included prison staff (including teachers, therapists, Disability Liaison Officers and a governor) from all over England. The workshop was tailored to the needs of its audience and was warmly received.

CASE STUDY STEVE WILKINSON

Steve Wilkinson tried to book medical seating on a Thomas Cook flight to Paphos in Greece. Mr Wilkinson has spine inflex and would be unable to travel in any other seat, but Thomas Cook would not confirm whether Mr Wilkinson seating until the morning of the outward flight nor for the return journey until he arrived at the airport on the day of the return flight.

Angela Hamilton, the Disability Rights Worker based at Newcastle Law Centre lodged a claim alleging that Thomas Cook unlawfully discriminated against him in the provision of its services, contrary to the Disability Discrimination Act 1995.

Thomas Cook offers customers the option of reserving seats with extra legroom, seats together or aisle/window seats, subject to availability. Customers are told at the point of booking whether or not there are any available on a particular flight. In failing to provide information on availability until the day of travel, Thomas Cook treated the Mr Wilkinson less favourably than it would have treated others who wished to book the seat of choice.

District Judge Stapely issued a Declaration of Discrimination against Thomas Cook stating that they discriminated against Mr Wilkinson and also awarded him compensation.

The ruling sets a precedent for the courts and is expected to make it easier for others facing discrimination when travelling. Mr Wilkinson commented, "I am delighted with this result as it's not easy arranging holidays when you are a wheelchair user, and this decision will help a lot of people."