



### Special points of Interest

- # Landmark Ruling
- # Inquiry into harassment of disabled people



Winter

# Leicestershire Centre for Integrated Living Newsletter

## Happy New Year 2010!

First of all, the whole of LCIL hopes that you all had a lovely seasonal holiday and are looking forward to 2010! We also would like to say thank you for your on-going support so we can continue to achieve our goals!



It goes without saying that we will continue our efforts with the same high level of determination and hope to continue to drive LCIL in the right direction to benefit disabled people by promoting services that facilitate independence in daily living and full inclusion into society.

**We hope the year 2010 will be a better year for everyone!**



# Access for All - Landmark Ruling From the Court of Appeal

## David Allen v the Royal Bank of Scotland [2009]

Just over 5 years after the duty to make physical adjustments to premises under the Disability Discrimination Act 1995 (DDA) came into force, the Court of Appeal has delivered its first judgment, ordering an organisation to install a lift to provide access to the branch for wheelchair users. Until now there has been little judicial guidance on the duty to make physical adjustments to premises. The Court of Appeal has now made it clear just what is expected of service providers. Helen Eastwood and Damian Hyndman review the case and look at the implications for local authorities.

**The Law:** The DDA 1995 requires “service providers” to take positive steps to make their services accessible to disabled people. That includes making reasonable adjustments to the physical features of its premises where this is necessary to enable disabled people to use the service, or to remove or alter the physical features or to provide a reasonable alternative means of making the service available.

If a service provider fails to make reasonable adjustments and cannot show that the failure is justified, for example due to health and safety issues, this constitutes discrimination. The courts can award damages and order that works be carried out.

### **The Facts of the Case**

Mr Allen, the claimant, uses a wheelchair. He had a bank account at a branch in Sheffield, the building was old and not accessible to wheelchair users. The bank suggested to the claimant to use other branches and investigated installing a lift to make it accessible to wheelchair users. A solution had been devised, but the works had not gone ahead as the bank was reluctant to lose one of their interview rooms. Mr Allen brought proceedings against the bank alleging discrimination.

The Sheffield County Court ordered the bank to pay Mr Allen compensation for injury to his feelings but more importantly ordered the bank to implement the scheme to install the lift. The bank appealed.

### **The Court of Appeal’s Decision**

In short, the Court of Appeal upheld the county court’s decision. This is the first occasion on which an organisation has been ordered to make physical adjustments to its property to enable wheelchair users to gain access.

Dyson LJ helpfully set out the sequence of reasoning to be followed by a court before it can conclude that there has been unlawful discrimination:

1. Is the organisation a provider of services for the purposes of the DDA?
2. If so, is there a physical feature that makes it impossible or unreasonably difficult for the disabled person, or a class of disabled people, to use the service?
3. If so, are there reasonable steps that can be taken to remove, alter or provide a reasonable means of avoiding the feature, or provide a reasonable alternative method of service?
4. If so, has the service provider taken those steps?
5. If not, does the failure to take those steps make it impossible or unreasonably difficult for the disabled person to use the service?
6. If so, is the failure to take the steps justified in accordance with section 20(4) of the DDA? (This section provides a number of different justifications, one of which is health and safety grounds and another is that it would not be possible to provide the service to members of the public generally).

### **The Future Access for All**

The decision demonstrates the importance of seeking to anticipate potential difficulties that disabled people might experience. It is clear local authorities need to be proactive in examining their services and premises for potential problems. The duty is an anticipatory one but also an evolving and continuing one. This is because better solutions may become available in the future.



Fifteen years ago, the thinking might have been “we’ll see what we can do to make our buildings accessible”. It is clear that now the thinking has to be “we will make all our premises accessible unless there is a good reason why we cannot”.

Whether considering an exercise of public function or a provision of a service, the Courts will look to this case to provide guidance on its approach. The case demonstrates the importance of a structured assessment to examining services and premises for potential problems and then implementing, and retaining evidence of, a robust decision-making process – something that commentators have been highlighting since the DDA came into force almost fifteen years ago.



## Sustaining Switched on Communities

The three-year **Sustaining Switched On Communities** project aims to make a lasting and sustainable impact on the capacity of Voluntary & Community Organisations (VCOs) to support individuals with a disability through ICT technology and training.

**LCIL** is the East Midlands regional partner for the project, which is led by **AbilityNet** - a national charity helping disabled adults and children to use computers and the Internet by adapting and adjusting their technology.

**LCIL's** role in this project is:

- To promote the use of assistive technology to overcome barriers and provide opportunities for disabled people.
- To work with, and assist, Voluntary & Community Organisations in the East Midlands region who wish to offer accessible IT services to members of their local community.
- To provide on-going advice and support to these VCOs and their beneficiaries regarding the use of assistive ICT technology.
- To support and undertake online and face-to-face assessments designed to improve accessibility to computers by increasing awareness.

Since **LCIL** became involved in the project in May 2008 the number of VCOs in the network has grown to 21, and together we have been able to support more than 2200 beneficiaries in the East Midlands with:

- Advice and guidance on the availability and use of adaptive resources such as keyboards, mice, trackballs and switches
- Advice and guidance on screen reader, magnification and text-to-speech programs
- Advice and guidance on the accessibility options available in Microsoft Windows
- Assessments to establish a better way of using their computer

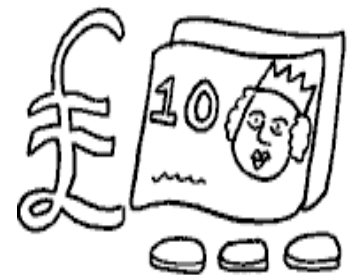
For the next, and final, 12 months of the project we are well on our way to adding another 11 VCOs but would be happy to discuss the project with other non-profit making organisations and VCOs.

For more information please contact: Alan Rowsell on 0116 222 5005 email [alan.rowsell@lcil.org.uk](mailto:alan.rowsell@lcil.org.uk) or Vihing Lee on 0800 269545 email [vihing.lee@abilitynet.org.uk](mailto:vihing.lee@abilitynet.org.uk) or visit <http://www.abilitynet.org.uk/soc>

# Government Allocate 12.5 Million for Childcare of Disabled Children

Parents with disabled children will now get better support to help with childcare following a £12.5 million cash boost from the Government, Ed Balls and Children's Minister Dawn Primarolo also announced that local authorities to do more to help disabled children access childcare.

The cash injection will fund the national roll out of the Disabled Children's Access to Childcare Programme, following ten successful pilots across the country. The programme will help parents of disabled children, who are understandably cautious about using childcare, benefit from expert advice and support when choosing services for their child.



As part of the programme, 'Parent Champions', who are parents in the local area who have experience of using childcare for their own disabled children, could help other parents understand the services and support available to them. The champions would be recruited by local authorities across the country to promote the new services to other parents. They will give parents greater confidence in making the most of the services available, and ensure they have someone to turn to discuss any concerns they may have. The £12.5 million fund is being allocated across the country, with the remaining 142 local authorities who were not part of the pilot each receiving at least £59,000.

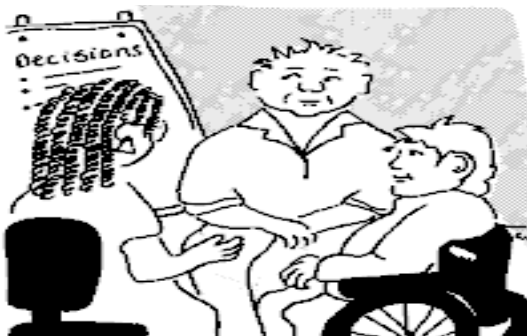
Local authorities will have flexibility to use the funds to meet local needs, choosing from a range of options developed by the ten pathfinders. These include creating the 'Parent Champions' as well as providing specialist training for childminders and staff so that they have the skills they need to work with disabled children. It could also be used to produce better information for parents of disabled children so they are more aware of the options available to them.

To help local authorities use the funding to maximum effect, the Department for Children, Schools and Families will be holding a National Take-Up Conference in February, featuring workshops run by representatives from the current pilots to promote good practice. The Department will also be producing a report on the experiences and findings from the pilots; showing new local authorities how they can best use their funding by highlighting the activities that the original pilots found most effective.

# Commission to hold Inquiry into harassment of disabled people

The Equality and Human Rights Commission has announced that it intends to conduct a formal Inquiry into disability related harassment in England and Wales and how public authorities are protecting disabled people's human rights to live free from violence and abuse.

The announcement came on the United Nations 'International Day of Persons with Disabilities'. The Commission is the UN accredited human rights body for Great Britain with specific responsibilities to promote and monitor implementation of the recently ratified Convention on the Rights of Persons with Disabilities.



The Commission plans to use its legal powers to investigate the true extent of disability-related harassment and take appropriate action based on the evidence uncovered.

At the end of the Inquiry, public authorities found not to be doing enough to tackle the problem and to protect the human rights of disabled people could face legal action to force them to comply with their legal obligations.

Evidence already gathered by the Commission indicates that targeted violence or hostility towards disabled people is widespread in Britain. People with learning disabilities or mental health conditions in particular experience high levels of victimisation.

A report on the safety and security of disabled people published by the Commission earlier this year found that disabled people are four times more likely to be the victim of a crime than other people and are twice as likely to be the victim of a violent attack.



**Mike Smith, Commissioner for the Equality and Human Rights Commission, said:**

"There have been many well-documented cases where targeted hostility, bullying and antisocial behaviour has escalated into more serious violence, murder or the death of disabled people.

"The recent inquest into the tragic deaths of Fiona Pilkington and her daughter Francessca show that early intervention and preventative action are essential, and that public authorities have to work in partnership to tackle this problem effectively.

"Disabled people experiencing harassment can become conditioned to hostile treatment, or are sometimes told to ignore it by those around them - including by public authorities. They may also go to enormous lengths to avoid putting themselves at risk which can limit their freedom and opportunities. These are unacceptable outcomes for anyone in our society.

The Commission will publish a draft Terms of Reference for the Inquiry, for consultation. Final Terms of Reference will then be published before the Inquiry begins in early 2010. The Inquiry will then report its findings within one year.

The Inquiry will gather and examine evidence from disabled people and others who have been affected by disability-related harassment and from public authorities on what steps they are taking to tackle the issue.



In particular, the Inquiry intends to look at the steps taken by public authorities to eliminate disability-related harassment and to address its causes, including prejudice and negative attitudes; and how public authorities have ensured the involvement of disabled people in eliminating harassment and its causes - for example by effective joined-up reporting procedures.

The Commission will consider how public authorities have complied with their obligations in relation to the Disability Equality Duty set out in the Disability Discrimination Act 1995, the Human Rights Act, and the UN Convention on the Rights of Persons with Disabilities.

## Exciting Opportunity Has Opened Up at LCIL

### **Equality Policy Officer** (18 Hrs) Salary £18,450 to £19,427 (Pro-rata)

LCIL is looking for enthusiastic and experienced individual who can develop and review policies and run workshops that will increase awareness and understanding of the barriers faced by disabled people and older people in achieving their potential in society. The post requires some travel throughout East Midlands.

### **Volunteer Co-ordinator** (18 Hrs) Salary £18,937 (Pro-rata)

Oversee and support the development of the volunteers who will be engaged in developing a new library and information service and support other volunteers who will be involved in admin work within the centre. Previous experience in a similar environment is preferred.

**Closing date for both applications: Tuesday 26<sup>th</sup> January 2010**

For an application form contact: [admin@lcil.org.uk](mailto:admin@lcil.org.uk) or call 0116 2225005

## Room Hire at LCIL

We have extremely competitive prices for organisations of disabled people, as well refreshments and catering available to suit all needs.



**Contact:**  
**LCIL**  
**5-9 Upper Brown Street**  
**Leicester**  
**LE1 5TE**



So, if you need to book a meeting, please, consider our fully accessible rooms and contact us on the number below.



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