

**SPRING 2022 QUARTERLY NEWSLETTER**

**How to Find Us**

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**Call us on 0207 791 9800**

**Newsflash**

We have changed our service times for one-off advice on Community Care and Housing matters.

Our Community Care helpline is now open from 2pm - 5.30pm on Mondays, Wednesdays and Fridays, and our Housing helpline is now open from 2pm - 5.30pm on Tuesdays, Thursdays and Fridays. You can contact our advisors for one-off advice during these times if you are not eligible for Legal Aid by calling **020 7791 9809**. If you require reasonable adjustments and cannot call, you can get in touch by emailing **helpline@dls.org.uk**.

If you are eligible for Legal Aid and require help with a Community Care or Housing matter, you can contact us on **020 7791 9820** or email us at **legalaid@dls.org.uk.** You can find more information [**here**](https://dls.org.uk/comm-care-and-housing/).

Welcome to Disability Law Service’s – also known as DLS – quarterly newsletter.

Disability Law Service is a user-led Disabled Persons’ Organisation which provides a free and vital service covering the areas of housing, community care, employment and welfare benefits to some 4,000 Disabled people each year. With almost half of people in poverty in the UK being a Disabled person or living in a household with a Disabled person, our free service improves access to justice and the protection of legal rights for Disabled people over the course of many years.

This issue contains updates from DLS, successful outcomes we've achieved for our clients and key developments in the sector.

**Get Involved**

You can make a vital contribution to the work we do at DLS by [volunteering](https://dls.org.uk/get-involved/volunteer/), [donating](https://dls.org.uk/donate/), or by [receiving training from us.](https://dls.org.uk/legal-training-dls/)



**Updates from DLS**

* Last year we gained over £3 million in awards and benefits for clients. We are also pleased to say we provided immeasurable confidence, support and peace of mind to clients by giving them with the opportunity to talk to a knowledgeable and empathetic adviser.
* Disability Law Service is campaigning to abolish non-residential care charges for Disabled adults in England. We believe that in any just society, Disabled adults should not be charged to live a full and independent life and that charging is a barrier to their independent living.
* The Disability Benefits Consortium, of which DLS is a member, and over 30 other organisations – including the Child Poverty Action Group, The Trussell Trust, and the Joseph Rowntree Foundation – has published a joint letter calling on the Government to increase benefits by 6% in line with inflation, instead of 3.1% as planned. For more information, [**click here**](https://www.disabilityrightsuk.org/news/2022/february/united-call-benefits-increase-6-april-2022-due-cost-living-crisis).

**A Success Story from the Employment Team**

E has Multiple Sclerosis (MS). She was employed as a Learning Support Assistant at a school for children with social, emotional and mental health needs.

E’s employer introduced new mandatory training which included ‘Restrictive Physical Intervention’ (RPI). E was suspended following medical evidence that she was unable to complete this training due to her MS. Her employer said the physical intervention training was essential in a school environment where there is a heightened requirement on occasions for intervention. They said it was necessary to ensure that E and others were safe at work. E had done the job for over 4 years without a single episode of having to restrain any pupil and only knew of 3 or 4 instances where restraining had been used.

By the time E contacted the DLS MS advice service she had lodged a complaint in the employment tribunal. DLS helped E by drafting further and better particulars for the tribunal. We alleged that the new policy and suspending the claimant was discrimination arising from disability, indirect discrimination and harassment under the Equality Act 2010. We alleged that the employer had failed to make a reasonable adjustment of exempting her from carrying out the more physical side of RPI and/or ensuring that she was assigned to duties where this would be less likely to be required.

E subsequently negotiated a new role with an increased salary, a written apology and compensation of £20,000.



**Community Care**

Our Community Care team works on the helpline, providing one-off advice to service users.

They also work on Legal Aid cases, representing adults and children with impairments and their carers on Community Care issues, such as:

* Requesting, reviewing and challenging care and support assessments for adult users and carers
* Requesting, reviewing and challenging care and support assessments for children
* Challenging personal budgets and requesting direct payment decisions
* Challenging Disabled Facilities Grants decisions
* Challenging financial assessment contributions

**A Success Story from the Housing Team**

A service user came to us for assistance with her section 202 review for a homelessness decision. The client had made a homelessness application to their council because they had been experiencing harassment from their neighbours which made their home unsuitable. The client required assistance in reviewing the council’s findings as the council did not believe they was being harassed. The council found their property to be suitable for them. They also dismissed the client’s mental health needs and circumstances.

We investigated the client’s issues and reviewed their housing files. We discovered evidence that their concerns were not taken seriously which we believed to be due to their mental health condition.

We therefore provided written representations in their review evidencing possible discrimination, the client’s housing needs and evidence of the harassment. We requested that they be found homeless and that the council apply their statutory duties to transfer the client to suitable accommodation.

In response, the client has been awarded priority for transfer to suitable sheltered accommodation, which they are grateful for. Their section 202 review is ongoing, as we want to council to apply their duties to relieve their homelessness until they can be transferred.

The client has also instructed a disability discrimination solicitor due to the evidence we discovered of possible disability discrimination.

**Housing**

Our Housing Team work on providing advice, assistance and full representation in areas of housing law including homelessness, possession and eviction proceedings, unlawful eviction, landlord harassment, disrepair, and anti-social behaviour.

**A Success Story from the Welfare Benefits / MS Team**

Tara has Multiple Sclerosis (MS) and came to us after a period of being off work due to sick. Tara no longer felt she could continue working due to her MS, which is getting worse. Tara approached our Welfare Benefits Team because she was worried about the financial impact that finishing work would have on her and she wanted to know whether there were any benefits which could help in this situation. We advised her on Employment and Support Allowance (ESA), Universal Credit, Support for Mortgage Interest and on what would happen to her ESA and Personal Independence Payment (PIP) if she withdrew a pension or moved to Ireland. Tara

Tara said that she found the advice received 'honest, open and very supportive' as well as 'tailored, professional and well explained and the communication felt caring and supportive'.

**A Success Story from the Welfare Benefits Team**

Mrs B has a daughter who is living with Non-Verbal Autism and severe delay. She claims Daily Living Allowance (DLA) for her daughter, receiving a high rate care component with nothing awarded for mobility. Mrs B’s daughter was diagnosed at the age of 3 and has been receiving the higher rate care component to date.

Mrs B requires the higher rate mobility component to be able to apply for a blue badge. Many medical professionals have advised Mrs B to apply for a blue badge, as her daughter can find herself in situations where she refuses to move or runs across busy roads and car parks. Mrs B’s daughter is currently being assessed for possible ADHD. She has no understanding of road safety or her own safety, and does not have capacity to make any decisions due to her severe diagnosis with severe delay.

Before seeking benefits advice from DLS, Mrs B and her daughter had submitted a mandatory reconsideration which was, unfortunately, unsuccessful. Mrs B reached out to DLS as she was not sure what steps to take next to challenge the decision. Our Benefits Team offered one-off advice. Mrs B was very understanding that we do not offer ongoing casework and representation in regards to Benefits.

Our Benefits Team reviewed the documents in support of Mrs B’s claim and spoke to Mrs B in depth to really understand the limits and struggles her daughter faces daily. After speaking with her, we advised that she should argue that her daughter falls under the ‘severe mental impairment’ criteria. Most of the letters from medical professionals had even broken this down in their supporting letters. Our advice contained information on how to argue each element of that criteria to suit her daughter’s case. Mrs B went away with all the advice given to her and submitted everything she could to the tribunal.

Mrs B informed DLS that the tribunal awarded her daughter the higher rate for mobility. She was very happy. She said, ‘I cannot thank you enough – you showed patience and empathy. I know you must speak to a lot of people every day but me and my daughter will forever be grateful for the time you gave to us’. Mrs B notified our Benefits Team that her daughter is drawing a picture which we may receive by post or email.

**Key Developments in Welfare Benefits**

* The Department for Work and Pensions (DWP) has launched a new ‘Way to Work’ campaign aims to get half a million off ‘off universal credit and into work’ by the end of June 2022. Under the plan, claimants who have not been able to find work in their previous occupation or sector within four weeks will be expected to look for work in another sector as part of their requirements for receiving their benefit payment.
* There has been an unsuccessful challenge to Universal Credit (UC) rules for disabled students. The rules for disabled students were first amended in August 2020, so that new UC claimants must have already been assessed as having limited capability for work (LCW) before the date of the UC claim. They were then further tightened with effect from 15 December 2021, so that the LCW determination must have taken place before the claimant started receiving education. Following a judicial review challenge, the High Court has found that the August 2020 amendments were not unlawful. The judgment found that there was no discrimination but, even if there was discrimination, it would be justified as the changes were consistent with the policy intent of UC.
* From 15 February 2022, an additional exception which exempts terminally ill claimants from the requirement to accept a claimant commitment was introduced. This means a person will not have to meet the basic condition of entitlement to have accepted a claimant committed to be entitled to UC or new-style Employment and Support Allowance (ESA) if the person is terminally ill.
* We have seen a number of clients contact us with concerns about rising energy prices, including clients feeling like they should look for work to meet these costs despite not feeling well enough to work. Many clients are also struggling financially due to the removal of the £20 a week increase in Universal Credit, which was introduced over the pandemic.
* The DWP has recently introduced a new online claim form for Personal Independent Payments (PIP) which has been helpful for many clients, such as those with MS, who struggle with writing and find it easier to type. Clients still need to phone up to being the claim, but PIP has already begun to trial moving the whole claiming process online.
* Scotland has introduced the Child Disability Payment (CDP) to replace Disability Living Allowance (DLA) for children, and is introducing Adult Disability Payment (ADP) to replace PIP from 21 March 2022. ADP is very similar to PIP but the intention is that assessments will be less onerous. ADP will be reviewed later this year and we hope to see an improvement to the existing strict rules for the mobility component. For more information, [**click here**](http://www.gov.scot/publications/policy-position-paper-adult-disability-payment).