

Disability Law Service

Fighting injustice for disabled people

AUTUMN 2023 QUARTERLY NEWSLETTER

Welcome to Disability Law Service's quarterly newsletter.

Disability Law Service – also known as DLS – 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.

Updates from DLS

- We are currently recruiting for two trainee solicitor please view by clicking [here](#) and a Welfare benefits advisor for more information visit our [website](#)
- Our team recently participated in the London Legal Walk in support of free legal advice services. Our team raised £220.00 plus gift aid . You can still sponsor us by [clicking here](#)



How to Find Us

www.dls.org.uk / [Facebook](#) / [Twitter](#) / [Instagram](#) / [LinkedIn](#)

Call us on 0207 791 9800

Get Involved

You can make a vital contribution to the work we do at DLS by [volunteering](#), [donating](#), or by [receiving training from us](#).

The Government has published draft legislation to amend the Equality Act 2010 with effect from January 2024

The Government has published draft legislation to amend the Equality Act 2010 with effect from 1 January 2024. The [Equality Act 2010 \(Amendment\) Regulations 2023](#) codify certain EU-derived discrimination protections which would otherwise have disappeared at the end of this year due to Brexit.

Amendments include:

- The right to claim indirect discrimination by association (to cover a person who does not hold the relevant protected characteristic but suffers the same disadvantage at the hands of the employer's PCP as those who do have that characteristic)
- An amendment to guidance on the definition of disability to state that consideration of a person's ability to participate fully and effectively in working life on an equal basis with other workers is relevant when looking at 'day-to-day activities'
- A 'single source' test for establishing an equal pay comparator (the idea that an equal pay comparator can potentially work for a different business so long as the body responsible for setting terms is the same)
- An extension of direct discrimination protection to cover discriminatory statements made about not wanting to recruit people with certain protected characteristics even where there is no active recruitment process ongoing and no identifiable victim.
- Confirmation that employment discrimination on grounds of breastfeeding falls under the protected characteristic of sex.

Policy Update in Employment

The government has updated its [Guidance on Fit Notes](#) for Employers and Line Managers.

The Statement of Fitness for Work, commonly known as the 'fit note' or Med 3 form, is used to record details of the functional effects of an employee's health condition. The fit note should allow the employer and employee to discuss the employee's health condition and consider ways to help them stay in, or return to, work.

The guidance confirms that people can only be given a fit note if their healthcare professional considers their fitness for work is impaired. If someone is considered fit for work, they will not be given a fit note. An employee does not require a 'fit for work' fit note if their fitness for work is not impacted.

The guidance mentions that the healthcare professional may have utilised the tick boxes on the fit note to indicate the kind of general adaptations or reasonable adjustment an employee may require to stay in, or return to, work. The employer should have health and work discussions with their employee to see whether there are any changes which could support them to stay in, or return to, work.

The guidance confirms that employers should consider the Equality Act when thinking about the management of sick leave and the return to work, with reasonable adjustments as needed. Employers must make reasonable adjustments to make sure workers with disabilities, or physical or mental health conditions, are not substantially disadvantaged when doing their jobs.



Benefits Update

1. Dates for next cost of living payment

The second low income cost of living payment for 2023/2024 will be made between 31 October and 19 November 2023. To be eligible a claimant must be entitled to:

- Universal Credit for an assessment period that ended between 18 August - 17 September 2023: or
- Income based jobseekers allowance, income-related employment support allowance, income support or pension credit for any period between 18 August - 17 September 2023; or
- For tax credits, a claimant must have received a payment for any day in the period between 18 August to 17 September 2023. Tax credits only claimants should receive a payment between 10 November and 19 November 2023.

[You can find more information about the cost of living payments for 2023 to 2024 on GOV.UK.](#)

2. Record number of PIP claims

[DWP statistics](#) show that a record number of personal independence payment claims were registered in England and Wales in the 3 months up to July 2023. There were 220,000 registrations and clearances for new claims during this period which is the highest number since the introduction of the benefit.

Many clients are reporting difficulties in reaching PIP on the phone, possibly as a result of the increased number of people claiming PIP.

3. Consultation on very worrying changes to Work Capability Assessments

The DWP has launched a [WCA changes consultation](#) aimed at reducing the number of claimants in 'limited capability for work-related activity' group. If these changes come into force, many disabled people could have their benefits reduced by £390 a month. [Disability Law Service spoke on Newsnight on 5 September](#) about how these changes would have a very negative impact on disabled people. The WCA consultation closes on 30 October. We would urge you to respond to the consultation if you can, explaining the negative impact on disabled people that these changes would have.

