

Disability Law Service

Fighting injustice for disabled people

SPRING 2023 QUARTERLY NEWSLETTER

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.

Updates from DLS

- The Legal Ombudsman's changed their time limits for bringing complaints from 1st April 2023. As a result we have updated our internal complaints process to reflect these changes. [Read our complaints process here](#)
- Our team will be walking 10km on Tuesday 28th June 2023, with Lord Chief Justice and other lawyers to continue our support for frontline free legal advice services. [You can sponsor us by clicking on the banner.](#)



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 Legal Ombudsman's Revised Scheme Rules Came Into Effect 1 April 2023

Following a review in 2022, the Legal Ombudsman (LeO) changed its Scheme rules.

There are three key areas for change

- 1) *Time limits for bringing complaints*
- 2) *Discretion to dismiss or discontinue complaints*
- 3) *Discretion to decline to issue an Ombudsman decision*

Looking in detail to, *Time limits for bringing complaints it says;*

From 1 April 2023, referring a complaint to (LeO) will not be later than one year from the date;

- of the act or omission being complained about; or
- when the complainant should have realised that there was a cause for complaints

In certain circumstances (LEO) will use their discretion to accept out of time complaints where the Legal Ombudsman considers it 'fair and reasonable'.

(LeO), explains that the time limits change for bringing complaints is due to their years of experience with previous cases being more challenging to investigate as a result of difficulties of gathering evidence, faded recollection of events, closed service providers, and lawyers having moved on or retired since the complaint about events took place.

The time limit rule that requires complainants to bring their complaint to (LeO) within six months of the date of the final complaint response remains the same with no change

You can [read the full guidance of the Legal Ombudsman's Revision to Scheme Rules April 2023 here.](#)

Updates in Welfare Benefits

First 2023 Cost of Living Payment dates announced

The first 2023/24 low-income Cost of Living Payment dates have been confirmed to be between 25 April and 17 May . This is the first of three payments totalling up to £900. Those who receive one of the following benefits should receive the payment automatically without needing to apply: Universal Credit; Income-based Jobseekers Allowance; Income-related Employment and Support Allowance; Income Support; Working Tax Credit; Child Tax Credit and Pension Credit.

To be eligible, claimants need to have been entitled to a payment or have an assessment period ending between 26 January and 25 February. Low-income pensioners who are not already receiving Pension Credit are encouraged to check their eligibility, as they can still qualify for the low-income Cost of Living Payment if they make a successful backdated Pension Credit application by 19 May.

Further Cost of Living Payments for pensioners and those on disability benefits will be paid later on in the year.

Click here [to read the new DWP guidance on the Cost of Living Payments](#)

Work Capacity Assessments are likely to be Scrapped in the Future

The [DWP White Paper](#) has mapped out plans to scrap the Work Capability Assessment (WCA), meaning the majority disabled claimants will now have to do one health assessment rather than two. The earliest these changes can be implemented will be 2026.

The WCA currently decides whether a person is fit for work or not, for the purpose of their Employment and Support Allowance or Universal Credit claim. Under the new proposals, instead of undergoing a WCA, Universal Credit claimants receiving disability benefit Personal Independence Payment will automatically qualify the new Universal Credit health element.

Welfare Benefits - Changes to terminal illness rules for disability benefits

Fast-tracked access to disability benefits [have been extended from 6 months to 1 year](#) for those nearing the end of their lives. Under Special Rules, people who are thought to be in their final year of life can now receive financial support 6 months earlier than they were previously able to, starting from 3rd April.

They can apply by filling out an SR1 form, and if their claim is accepted, they will receive the highest rate of benefits in the majority of cases. This applies to Personal Independence Payment, Disability Living Allowance, Attendance Allowance, Universal Credit, and Employment and Support Allowance.

Employment/Discrimination Law update

In discrimination cases you can claim for the emotional distress the discrimination has caused you - this is called 'injury to feelings'. Compensation for injury to feelings is split into three bands called 'Vento bands', based on the case of [Vento v Chief Constable of West Yorkshire Police \(2002\)](#).

The 2023 annual update to the Vento guidelines have been published. In respect of claims presented on or after 6 April 2023, the Vento bands are:

- a lower band of £1,100 to £11,200 (less serious cases);
- a middle band of £11,200 to £33,700 (cases that do not merit an award in the upper band); and,
- an upper band of £33,700 to £56,200 (the most serious cases), with the most exceptional cases capable of exceeding £56,200.



Community Care News

Equality and Human Rights Commission (EHRC) carried out an inquiry to understand peoples experiences of challenging decisions about adult social care. As, Disability Law Service we participated and gave evidence to the inquiry our submissions were;

- 1) **There should be better explanation of decision making through the care assessment and planning process, and better information on *what-to-do-if-you-don't agree*.**
- 2) **The Social Care Complaint Regulations should better lay-down a process for good complaint handling, and complaints decision makers should be independent and expert.**
- 3) **Reasonable adjustments – we called for recognition that the positive duty to consider / make reasonable adjustments for those accessing the social care system is not observed (on the whole).a**

ECHR published its summary findings under the heading ['Challenging adult social care decisions in England and Wales'](#)

- local authorities make daily decisions about people's access to social care. People have a right to challenge them
- the system for challenging decisions is confusing and subject to long delays
- local authority complaints processes are time-consuming, complicated and stressful
- people are not given crucial information about how to challenge decisions; they fear that, if they challenge decisions, they will face negative consequences and lose access to care
- some users are concerned at a lack of independence from the person making the decision
- data collection and analysis is not good enough, so patterns and trends are being missed

[ECHR has published a full report about their findings, including their recommendations for change](#)

