

Disability Law Service

Fighting injustice for disabled people

SUMMER 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

- **The Legal Aid team have passed their annual audit with all areas fully compliant**

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](#).

Community Care Success Stories

The legal aid team opened a community care case for a client who is a wheelchair user in September 2011. The client had a serious fall and broke their hip, requiring an emergency hip replacement. After the hip surgery, the client told the team they required 24-hour support from their Personal Assistant and the client was funding this through an underspend of their direct payments. At this point, they were only being funded by their local authority for 9 hours per day.

The legal aid team arranged a meeting with the local authority to discuss the client's case. Following this meeting and further discussions, the local authority agreed to fund 79 hours of support each week for the client on an interim basis whilst it completed its assessment of the client's needs. The legal aid team spent a substantial period of time gathering together evidence to detail the support their client required throughout the day and night.

When the local authority completed its assessment, it determined that the client required 71.5 hours per week of support, a reduction of 18.5 hours from what the client was receiving on an interim basis. It argued that the client's night-time needs could be met by the use of continence products. The legal aid team, subsequently appealed the local authority's decision, setting out that its position was wholly unreasonable and it had a duty to meet all of their client's support needs.

Following the appeal, the local authority changed its decision. It offered the client 9 hours of both daytime and night-time support, totalling 18 hours per day and 126 hours per week. This new support package was an increase of 63 hours per week, double the amount of support, the client was receiving before their fall and hip surgery.

The Legal aid team successfully opened community care legal aid case for a client in August 2022. The client was facing an unpaid care charges bill of nearly £5,000 from her local authority for the care and support she had received since 2015. Following careful review of all relevant documents, the legal aid team assessed that the local authority had made a number of mistakes in its financial assessments, such as using the incorrect minimum income guarantee for 1 year. The legal aid team subsequently wrote to the local authority to detail the errors that had been made. In response, the local authority recognised these errors and offered to write off all the client's unpaid care charges up to April 2023. The client agreed to the local authority's offer as if all the financial assessments from 2015 were re-conducted, there was a risk that the client would still owe the local authority money for unpaid care charges. The team is still acting for the client to assist the client with this year's financial assessment.

Another Community Care Success Story

Email of appreciation was received from a family member of a client to Disability Law Service community care solicitor.

Miss R's family member in their email said;

"Miss R had a long hospital admission in a psychiatric intensive care unit. She was discharged with no support/ care package in place. Miss R's care coordinator did not even attend the discharge meeting. Repeated follow up with Miss R's care coordinator yielded no result for months. This was very stressful for Miss R and we as her family. From the point you got involved, we had some breathing space and things started improving. We were so grateful to have this support from you. Miss R really needed this care package. It goes a long way to prevent a relapse and keep her out of hospital. We as a family feel that a lot of burden was lifted from our shoulders. Your organisation is providing such a vital, valuable support to the most vulnerable ones in the community who are really struggling to get their voice heard."

I would like to say that it was great working with the solicitor . The solicitor came across as knowledgeable, polite, kind and helpful. Miss R found it easy to engage with the solicitor This combination of excellent legal and soft skills, makes the solicitor a valuable asset for your organisation.

"Just wanted to update you that having the care package in place is helping Miss R to recover, look for, and start a job. Her journey may not have been possible without your help. Thank you so much for your help".



Employment Law Update

The Employment Relations (Flexible Working) Act 2023 has successfully passed through Parliament and received Royal Assent on 20 July 2023. As its name suggests, the Act intends to give workers more flexibility over when and where they work. The 2023 Act makes a number of changes to the current flexible working regime. These are:

- Allowing employees to make two flexible working requests within a 12-month period;
- Mandatory consultation between the employer and the employee who makes the flexible working request;
- Shortening the time period for response to a flexible working request to 2 months; and
- Removal of the requirement for the employee to explain the effect (if any) of the change on the employer and how that effect might be dealt with.

The measures in the Act will be supported by a statutory Code of Practice developed by Acas. The Acas consultation on the draft Code of Practice on handling requests for flexible working will run until 6 September 2023. The consultation document and questions are available on the Acas website along with a response form: www.acas.org.uk/flexible-working-code-consultation.

Disabled people in work may also be entitled to reasonable adjustments, alongside the right to make a formal flexible working request.

Community Care News

Disability Law Service Solicitor participated in a pilot research in March for the Legal Aid Agency; conducted by LAA digital for justice research services.

Disability Law Service solicitor assisted on the pilot project research aimed at simplifying the service available for service providers to 'Check if your client qualifies for legal aid' (CCQ) service'

The solicitor was recently informed that changes and improvements have now been made to the service based on the insights learned from the user research. 'Check if your client qualifies for legal aid' (CCQ) service' will be launching on 22 August 2023 for service providers to check the eligibility of their clients/service users.

I will hyperlink it here once Ola receives it on Tuesday

Updates from Benefits

1) Update on managed migration to Universal Credit

The DWP has confirmed that managed migration to Universal Credit, for people receiving Tax Credits, will be rolled out to further regions from September 2023:

- East Scotland
- Cumbria and Lancashire
- South West Wales
- Essex
- Lincolnshire, Nottinghamshire and Rutland
- Devon, Wiltshire, Hampshire and the Isle of Wight

In addition, from September 2023 the DWP will

- bring some claimants on DWP benefits and Housing Benefit into its discovery phase
- send letters to all Tax Credit claimants who'll be subject to managed migration

Please note that Tax Credit claimants get transitional protection when moving to Universal Credit – so you could be entitled even if you have capital of over £16,000, or if an online benefits calculator says you won't be entitled.

2) Awareness raising about claiming ESA

If your health means you cannot work, or [your health means you work less than 16 hours a week](#) earning less than £167 a week, you may be entitled to new style Employment and Support Allowance (ESA). ESA is not affected by savings or a partner's income.

In order to be eligible for ESA you will need to have worked and [paid enough Class 1 or 2 National Insurance contributions](#) from April 2020 to April 2022.

If you do not meet the national insurance criteria to claim ESA, it may still be worth applying as you can make a 'credits only' claim. This means you do not get paid ESA, but you will get your national insurance credits paid, which count towards your State Pension. The process of applying is the same.

You can apply online here: <https://www.gov.uk/employment-support-allowance/how-to-claim>

