

Disability Law Service

Fighting injustice for disabled people

SUMMER 2024 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

- Our team recently participated in the London Legal Walk in support of free legal advice services. Our team raised £520 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](#).

Community Care News

Many service users have contacted us recently for advice on care costs when travelling, and in particular, holiday travel. The position is the same whether the reason for travel is holiday, or family, or business etc.

Local authorities must ensure that care needs captured in a *Care Plan* are met. The *Care Act* does not suspend that duty when a person travels. A *Care Plan* sets out the framework of practical support a person needs to meet their *eligible outcomes* (to eat, get-up, attend to personal hygiene, get-dressed, go-out etc.). A person needs that practical support whether they are at home, or elsewhere, and a local authority is responsible for funding the care, wherever the needs exist.

As is made clear in the *Care Act statutory guidance* – a local authority can take into account cost when deciding *how* a person's care needs are met, but not *whether* those needs are met (paragraph 10.27 of the guidance). A local authority may prefer to engage carers at the travel destination, rather than pay for regular carers to travel to provide the care. And provided the care needs are met, that is OK. If a person needs technical, complex care, such that can only be provided by the regular carer (who may be specially qualified to provide that care), then it is more likely the regular carer will have to travel, and the local authority will have to pay the carer's reasonable and necessary travel costs – which may include travel tickets, hotel, food, drink etc.

A person receiving care via *Direct Payments* can arguably exercise greater choice over the delivery of care when travelling. That is, the *statutory guidance* emphasises the government's intention that *Direct Payment* provide people with *choice and control* over how their care needs are met (paragraph 12.2). If a person informs their local authority in advance of a likely need to travel – say, during their care needs assessment or review, then that need should be captured in the *Care Plan*, and the reasonable and necessary care costs will have to be provided for in the person's *Personal Budget*

Similarly, if a *Care Plan* records that a person has a need for a holiday / respite – then the local authority must provide budget to meet the costs of the holiday / respite.

There is no provision of the *Care Act* which limits local authority care duties to apply only when a person is in the UK.

Abolishing home care charges report by DLS

Disability Law Service has just published a report highlighting the detrimental impact of home care charges on Disabled adults and how local authorities in England are acting unlawfully by not complying with the public sector equality duty. You can read the full report and supplementary documents [here](#).

The research report is the culmination of work that was undertaken by our solicitor Alexander Sherman as part of his training contract through the Justice First Fellowship scheme, funded by [The Legal Education Foundation](#).

Key communication message from the report

We all want to have as much control as possible over our own lives, the power to make decisions and to be able to do the things that matter to us. That's a basic human right which most of us take for granted. Support to live independently at home gives Disabled people that human right, too. But councils across England are charging Disabled people for this vital support. This means Disabled people are having to make the terrible choice between things like heating and eating and whether we're able to get out of bed, wash, dress, get out and about and see friends. It doesn't have to be a choice. By not charging Disabled people for home care, councils are not only doing the right thing, but they're also using their limited resources sensibly as it prevents more intensive support being needed further down the line.

Disability Law Service
Fighting injustice for disabled people

**92% of councils in England
acting unlawfully towards
Disabled people by not
meeting the public sector
equality duty**



Welfare Benefits Updates

PIP Consultation

We are hoping the next government will prioritise the needs of the disabled community by increasing benefit rates and making disability benefits easier to access. We very much hope they will scrap the worrying consultations on PIP and fit notes. These are just proposals and may never be introduced. You can share your thoughts by responding to the 2 consultations.

The PIP consultation suggests reforms to reduce the cost of PIP, including:

- Vouchers for specific services instead of cash
- One-time payments for home adaptations
- Reimbursements for one-off purchases with receipts
- Changing eligibility criteria for PIP
- Adjusting the qualifying period for PIP
- Directing people with mental health conditions towards treatment
- Requiring a formal medical diagnosis
- Ending PIP assessments for certain long-term or terminal conditions
- Considering one-off payments for home adaptations

How to respond to PIP Consultation

Link to online consultation [Modernising Support for Independent Living: The Health and Disability Green Paper \(Page 1 of 6\) \(office.com\)](#)

Welfare Benefits Updates Continued

Fit note consultation

DWP has set out proposals aimed at exploring the reforming of the fit note process to support those with long term health conditions to access timely work and health support.

The fit note consultation suggests reforms to the way that fit notes are issued:

- A triage service to “guide” people seeking a fit note towards “the most suitable health and employment pathway”.
- An assessment of a person's ability to work, followed by a conversation with a healthcare professional or work and health adviser.
- Training and dedicated time for healthcare professionals and work and health advisers to consider various factors affecting a person's ability to work.
- The ability to refer people to more intensive work and health support and help employers access expert support through Occupational Health services when needed.

How to respond

Please submit your responses via this online form. [Fit Note Reform: Call for Evidence \(Page 1 of 8\) \(office.com\)](#)