

# **Disability Law Service Annual Report 2007**

Providing Access to the Law  
for Disabled People

[www.dls.org.uk](http://www.dls.org.uk)

# About the Disability Law Service

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The Disability Law Service (DLS) exists to challenge the poverty and inequality of disabled people, by securing with them free and equal access to their legal rights and entitlements.

The values that underpin our service are:

| Accessibility

| Inclusivity

| Integrity

| Excellence

| Partnership

We aim to:

Offer a high quality legal service that enables disabled people to access relevant information, clarify their rights and take any appropriate action.

Answer all queries with an accurate and clear response.

Respond to our service user's problems promptly and with understanding.

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# Chair's Report

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The constantly shifting external environment has meant this has been another exciting and challenging year for Disability Law Service trustees, staff and volunteers.

The next 12 months promise more of the same! It is impressive how well DLS staff and volunteers have kept themselves informed of and managed these changing external influences. The key seems to be their hard graft and flexibility which is driven by a determination to provide a high quality and accessible service to clients.

One major change facing DLS is that on the 1st October 2007 the Equality and Human Rights Commission (ECHR) formally opened its doors for business.

This new commission replaces the Disability Rights Commission, the Equal Opportunities Commission and the Commission for Racial Equality all of which closed at the end of September.

The ECHR's stated purpose is to be 'an independent and influential champion whose purpose is to reduce inequality, eliminate discrimination, strengthen good relations between people and protect human rights'.

The EHRC will take on all of the powers of the existing Commissions as well as new powers to enforce legislation more effectively and promote equality for all.

Amongst other things the EHRC will have powers to challenge unlawful discrimination on grounds of disability, race, gender, age, sexual orientation, religion or belief. It will also promote understanding of human rights and encourage good practice by public authorities to meet their Human Rights

Act obligations. Additionally, it has powers to take human rights cases.

The Commission will cover England, Scotland and Wales. In Scotland and Wales there will be statutory committees responsible for the work of the EHRC, including a Disability Committee which is chaired by Baroness Jane Campbell DBE, a seasoned campaigner and advocate for disability rights.

Earlier this year the DLS Director took part in a round table stakeholder discussion with Sir Trevor Phillips, Chair of the ECHR, and it was clear then that the new commission will be looking to achieve its objectives in partnership with the voluntary sector. In the coming 12 months DLS will continue to engage with the EHRC and, in tandem with

other key disability voluntary organisations, ensure that disability rights continue to hold a central position on social policy agendas.

Thank you to all DLS trustees, staff, volunteers and funders for your ongoing support and commitment.



Joanna Owen

Chair of the Board of Trustees

# Director's Report

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I am delighted to report another good year for us, despite being overshadowed by the uncertainties surrounding the future of legal aid.

Without this support many disabled people, being unable to afford private representation, could find themselves powerless to resolve their problems. We responded to consultations, attended public meetings and lobbied our MPs alongside many others who feared these changes would restrict access to justice for the most disadvantaged. We still do not know how the planned changes will affect disabled people and will continue to monitor the process closely.

Our achievements over the past year included:

- Responding to 3927 requests for legal advice, information and other help with legal problems.
- Helping 2314 individuals

through specialist legal advice and casework from our legal team.

- Taking on 116 new legal cases up to and including representation in the courts or tribunal.
- Averaging 20,000 visits per month to our website, with numerous legal factsheet downloads.
- Recruiting and training over 15 law student volunteers to assist front line enquiries.

We were thrilled to be granted development funding from the Lloyds TSB Foundation for the Activate project. New and innovative, Activate will establish free legal advice sessions via instant messaging for young disabled people.

This seed funding has been bolstered by additional support from an AOL Innovation in the Community Award and the Fidelity UK Foundation. Additionally DLS has developed new partnerships with agencies that support young disabled people and Activate will increase and improve their access to the law by providing relevant and timely legal advice, via the internet.

During the year our individual and corporate supporters continued to provide vital support helping us sustain and grow our work. Each year we field a team of runners in the Flora London Marathon. It's a great day, much enjoyed by all of us who go along to cheer on our athletes. This year our seven athletes raised a record £12,460, a tremendous

achievement. Grateful thanks to them and our volunteer fundraiser, Harry Stone, who organises this event for us.

We have much to look forward to in the coming year. In particular, we will be starting an exciting new project with the help of a substantial grant from the Big Lottery Fund. The grant is part of the multi-million pound roll out from the Advice Plus programme will enable the Disability Law Service to provide much needed rights-based advice to communities, England wide.



Linda Clarke  
Director

# What We Do

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DLS continues to excel as a provider of high quality legal services for disabled adults and children, their families, enablers and carers.

## | National Legal Adviceline

Provides access to a solicitor or qualified legal adviser in the following areas of law: Community Care, Consumer Contract, Disability Discrimination, Further and Higher Education, Employment and Welfare Benefits.

## | Casework

DLS offers a casework service including the support of individuals through the whole legal process by preparing the case, negotiating settlements, providing one-to one consultation and full representation in the courts.

We are not able to take on as many cases as we would like because we do not have the resources to do so. However

if unable to take on a case we can assist the individual to seek help elsewhere.

Contact our National Legal Adviceline to speak with a specialist caseworker.

## | Information

DLS produces a comprehensive range of easy to understand factsheets on legal issues in all our areas of law. All our information sheets are available in Braille, electronic and audio tape formats.

## Contact:

Tel: 020 7791 9800

Minicom: 020 7791 9801

Fax: 020 7991 9802

E-mail: [advice@dls.org.uk](mailto:advice@dls.org.uk)

[www.dls.org.uk](http://www.dls.org.uk)

## | Specialist Support

With funding from the Legal Services Commission we are now able to offer specialist advice, casework support, and general help with casework in Community Care to other Legal Services Commission contract holders and quality mark holders.

### Contact:

Community Care Specialist  
Support Adviceline:  
Tel: 020 7791 9809

## | Training

We offer a diverse range of courses each year in Spring and Autumn. These have included Disability Discrimination in Employment, Community Care, and Part III of the Disability Discrimination Act (Access to Goods, Services and Facilities, Mental Capacity and Decision Making).

Bespoke courses for organisations can be provided on specific legal issues for advisers and advocates of disabled people.

### Contact:

Tel: 020 7791 9800  
e-mail: [training@dls.org.uk](mailto:training@dls.org.uk)

# Community Care

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This year we opened 23 cases and closed 13. Each closed case had a successful outcome for the disabled person.

Many cases were about getting a specialist residential or independent living placement where social services wanted to place the disabled person in a cheaper unsuitable place than the placement of the person's choice.

We expect to deal with an increasing number of such cases in the future as budget cuts continue to dictate the placement decisions of social services.

The other cases involved matters as diverse as the right to have a lift installed as a work of adaptation, and the right of a learning disabled adult to choose to live in a residential home near her only living family members who had relocated to the South Coast from London. In

the latter case social services chose to override the disabled person's clearly expressed preference on the basis that they knew best. They relented only when threatened with legal action.

We continued to provide specialist training in the community care field to other legal advocates and advisers, and to other charities representing disabled people. Delegate feedback was overwhelmingly positive and we expect to provide more bespoke training to existing and new customers in the future.

## Case Study

Lucy is 21 years old and has complex special needs associated with Autistic Spectrum Disorder. In addition, she displays challenging behaviour and experiences high levels of anxiety which can result in physical symptoms such as insomnia and vomiting.

Since leaving her residential college placement, her anxiety levels have increased resulting in panic attacks and depression as a result of the uncertainty concerning her long term placement.

The responsible social services authority failed to identify/secure a suitable long term placement for her prior to the completion of her college placement. This

was despite being aware for a very long time that Lucy's placement was coming to an end.

A suitable specialist long term placement was later identified by her family but social services refused to confirm funding for it on the basis that it was too expensive and also that she did not require a specialist placement. After a long battle with social services with no positive outcome, Lucy's family contacted the Disability Law Service to assist them in the matter.

Following a letter threatening legal action, social services agreed to fund the specialist placement for Lucy.

# Consumer

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From 4 December 2006, the DDA 2005 imposed further duties on public authorities with the aim of tackling systematic discrimination, ensuring that public authorities build disability equality into everything they do.

During the past year we have challenged decisions made by Highways Departments concerning policies on the allocation and siting of disabled parking bays, failure by Housing Services to supply British Sign Language interpretation for Deaf homeless persons, refusal of an NHS dentist to register a patient with HIV.

Action against non-public authorities has included restaurants refusing to serve wheelchair users, or denying access to guide dogs, and discos doing the same by failing to undertake risk assessments or have evacuation policies for disabled customers.

Authorities now have to produce Disability Equality

Schemes, consult with disabled constituents, and adjust policies which have unreasonably adverse consequences for disabled people, which are disproportionate to whatever legitimate aims they are trying achieve. This arguably widens the scope for judicial review of discriminatory policy decisions.

Furthermore, the new Act clarifies the position of public bodies when performing certain public functions previously excluded, e.g. planning decisions. They now have to take positive steps to ensure that disabled people can benefit from those functions. For example, before December 2006, Tribunals had to ensure physical accessibility on

site. Now, they should also consider whether tribunal staff should be trained to assist disabled users under the Manual Handling Regulations and if not, why not.

## Case Study

We acted for a profoundly deaf tenant who was being threatened by a gas provider, demanding entry to check a meter which was no longer in use.

Whilst the provider had statutory obligations to fulfil, it had nevertheless failed to recognise that a) the tenant was not a gas user, b) had no access to the gas meter which was installed not in his flat but in the hall, and c) sending inspectors without prior notice, or a British Sign

Language interpreter, was extremely intimidating to a Deaf person.

We lodged a formal complaint on his behalf to the provider who agreed to disconnect the meter and sent him a cheque for £80 by way of apology.



# Further and Higher Education

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Providing effective means of obtaining necessary higher and further education qualifications is one of the ways in which full participation in society is encouraged.

Prior to the creation of the Equality and Human Rights Commission, the Disability Rights Commission had invited us to join in their “transfer of skills” project to promote and offer legal support on the disability rights of service users and also students in further and higher education, particularly in the South East Region of England.

Education providers have been required to provide auxiliary aids and services to disabled students since 2003, but their disability officers continue to be limited by lack of training and disability awareness.

Providers display poor planning and appear to have no protocol for early assessment of the needs of students who will have specified their disability on enrolment.

The Disability Equality Scheme has also been devised to improve the awareness of a student’s needs. Fully incorporated from April 2007, and implemented by the Learning and Skills Council, the scheme promotes the DDA as well as the Duty to Promote Disability Equality Statutory Code of Practice 2006.

The Disability Equality Scheme asks adult education providers to take the experiences and perspective of learners with disabilities into their decision making process when delivering education, to then translate this into making meaningful reasonable adjustments.

However discrimination is still a problem for many students, and many continue to face:

- Direct discrimination
- Failure to receive reasonable adjustments
- Disability related discrimination
- Victimisation or Harassment

Leaving aside disability discrimination, educational institutions enter into contracts for the delivery of services to students, which in Contract law terms, requires them to do so with “reasonable skill”. Many such institutions are in breach of both the contract and their statutory duties under the DDA.

## ■ Case Study

A visually impaired student had enrolled with a provider of distance learning who discovered, well into the academic year, that they had neither the technical equipment or knowledge to support her needs.

They had also offered her a credit facility and continued to demand instalment payment of fees from her while she was deprived of access to the course.

We were able to send a successful letter of complaint on her behalf, seeking cancellation of the credit agreement and deferring her place to the following year.



# Employment

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The employment law unit has achieved a total of over £100,000 in casework compensation for our clients over the past year.

We continue to be involved in cases with high value (both monetary and in terms of development of Disability Discrimination Act 2005 employment). The specific DDA related areas of “reasonable adjustments” and “incapability based dismissals” continue to be prominent features in our casework.

Improvements to DDA employment law appear to have continued, during 2006 and 2007, with the aim of clarifying principles and important caselaw that had begun during 2005/2006.

Two important cases were: O’Hanlon v HM Revenue & Customs (originally heard by a Tribunal in 2005 and then the Employment Appeal Tribunal in 2006) was confirmed by the Court of Appeal in 2007

and established that disabled employees must now begin to accept that in the absence of outstanding reasonable adjustments there may be no obligation to pay salary during sick leave beyond sick pay entitlements.

In the case of Spence v Intype Libra Ltd. an appeal to the Court of Appeal has been lodged in order to clarify dispute over the validity of the principle laid by the 2006 EAT case of Tarbruck v Sainsbury’s Supermarket Ltd. in which the duty to make reasonable adjustments under the DDA was held NOT to include an obligation upon an employer to make a health / risk assessment of a disabled employee.

## Case Study

EH, who is in her 60s, worked for a local authority for over 20 years. Suffering from multiple disabilities, most notable of which were diabetes and depression, her work related routine and responsibilities were affected in changes to working practices within her department in late 2004.

The changes did not make it easier to carry out her work, and EH commenced an internal grievance pursuit immediately, seeking reasonable adjustments in the implementation of the relevant changes. Unfortunately her union failed to offer her any support in the matter and by early 2006 she had lost her

grievance appeals and was forced to resign. EH was referred to DLS by her local disability action group.

Claims for constructive dismissal and disability discrimination were made in mid 2006 and multiple hearing dates were set for April 2007. Upon attending the hearing (with DLS representing in person) her employer sought to attack EH's claims on numerous preliminary and procedural issues (with the aim of avoiding focus on the inherent merits of the claims) however they were not successful. EH's claims were then settled during the Tribunal multiple hearings.

# Welfare Benefits

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Of the 40 new cases this year about half were to do with disputed decisions made by the Department for Work and Pensions (DWP) on entitlement to or awards of DLA (mobility and care components).

The rest were about a range of other benefits issues such as Incapacity Benefit, Income Support and Housing Benefit.

The cases we do take on raise novel and complex issues and we are often called upon to assist those who have been unable to obtain advice or representation elsewhere.

Many cases were resolved through timely advice and early intervention with the DWP on behalf of the client. However we did assist about 10 disabled people at the Benefits Appeal Tribunal either through written submissions or attendance at the hearing itself. There was a positive outcome for the client in 8 of those cases where we did provide advocacy and / or a submission at the appeal hearing.

We have also continued to deliver specialist training on disability related benefits to those advising disabled people, and those with long-term health problems, focussing primarily on Disability Living Allowance and Attendance Allowance. We have also provided training specially commissioned by other advice agencies.

## ■ Case Study

M is a Cypriot National who settled in the UK in 2004, following Cyprus' accession to the EU. M had been diagnosed with Multiple Sclerosis (MS) in Cyprus but managed to continue working after his condition was stabilised with medication. Once in the UK M took employment

until April 2006, when his condition deteriorated and forced him to give up his employment.


In October 2006 M claimed Income Support, and was asked to show he had a right to reside in the UK. Whether he did depended on if he was a “qualified person” within the relevant statutory regulations, which term includes a person who is “a worker” in the UK.

The regulations provide that a person who is no longer working shall not cease to be treated as a worker if he is only temporarily unable to work as a result of illness. Recent case law has decided that even though a claimant for benefit suffers from a permanent condition, as in this client’s case (MS), it did not follow that his incapacity

for work was permanent and not temporary.

As a result of a written submission from DLS explaining the relevant regulations, referring to the recent case law and providing a medical report from client’s GP, the Tribunal decided that MS was a fluctuating condition with remission periods and that his condition was in the course of being stabilised by his GP.

The Tribunal concluded that M retained his status as a worker, and therefore was a qualified person within the regulations with the right to reside in the UK, and was entitled to Income Support whilst he was not working because of his MS.



# The London Project

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DLS is actively involved in working together with other organisations and groups in both the disability and wider advice sectors across London.

This year we have continued to ensure that disability issues remain at the forefront of equalities policy development, through our involvement with the planning for the new Commission for Equalities and Human Rights, and our membership of the Equalities and Human Rights London Sub-Group for Change Up, the Government's initiative to strengthen the infrastructure of the voluntary and community sector.

DLS has itself helped to strengthen the capacity and develop the skills of groups and organisations working with and for disabled people across London, by providing training in Community Care, Employment Discrimination, Disability Benefits, Mental Capacity and Decision Making, and Access to Goods

and Services to over 100 advisers and advocates from a wide variety of large and small agencies working with disabled people.

We have played our part in our local borough of Tower Hamlets through active involvement with the Advice Providers Forum and Tower Hamlets Community Organisations Forum, and have been pleased to take part in the annual Bangladeshi Disability Awareness Day in Whitechapel, and in the Disability Awareness Day held at Poplar Ideas Store.

Our approach to outreach has been needs led, and we aim to respond to the needs of groups and organisations working with disabled people across London. Outreach events have taken place in

many boroughs and have included attending information days, giving talks to service users on their rights and entitlements, and facilitating workshops and discussion groups.

One of the local organisations we have worked with over the past year is Disability Action in Islington. Training of their staff members, and an outreach visit from our Employment Adviser, has helped to support their work in combating disability discrimination that affects the lives of disabled people in Islington.



DLS at the Liberty, London's Disability Rights Festival '07

# Summarised Financial Information

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The summarised financial information shows the income raised for our activities, the cost of raising the income and the amounts spent on our charitable activities. The information is taken from the full financial statements approved by the Trustees on 17th October 2007 and subsequently submitted to the Charity Commission and to the Registrar of Companies. In order to gain a full understanding of the financial affairs of the charity, copies of the full audited financial statements can be obtained from the Disability Law Service.

Signed on behalf of the Trustees



Joanna Owen, Chair

## | Independent auditors' statement to the trustees of Disability Law Service

We have examined the summarised financial statements of Disability Law Service.

## | Respective responsibilities of trustees and auditors

The trustees are responsible for preparing the summarised financial statements in accordance with the recommendations of the charities' SORP.

Our responsibility is to

report to you our opinion on the consistency of the summarised financial statements with the full financial statements and Trustees' Annual Report. We also read the other information contained in the annual report and consider the implications for our report if we become aware of any apparent misstatements or material inconsistencies with the summarised financial statements.

## | Basis of opinion

We conducted our work in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board.

## | Opinion

In our opinion the summarised financial statements are consistent with the full financial statements and the Trustees' Annual Report of Disability Law Service for the year ended 31st May 2007.



Sayer Vincent  
Registered Auditors  
17 October 2007

## 1st June 2006 to 31 May 2007

	2007 Total (£)	2006 Total (£)
<b>Incoming Resources</b>		
Incoming resources from generated funds		
Voluntary Income	49,702	36,769
London Marathon appeal	12,454	5,303
Investment income	2,360	2,091
Incoming resources from charitable activities		
Legal advice and casework	374,852	392,925
Training and consultancy	8,520	7,420
Other incoming resources	1,494	2,439
<b>Total incoming resources</b>	<b>449,382</b>	<b>446,947</b>
<b>Resources expended</b>		
Cost of generating funds		
Fundraising and Publicity	10,906	17,827
Charitable activities		
Legal advice & casework	407,342	416,564
Governance costs	20,670	18,518
<b>Total resources expended</b>	<b>438,918</b>	<b>452,909</b>
<b>Net income / (expenditure) for the year</b>	<b>10,464</b>	<b>(5,962)</b>
<b>Reserves</b>		
Restricted funds	27,667	14,817
Unrestricted funds		
Capital fund	3,796	6,163
General funds	96,607	96,626
<b>Total funds</b>	<b>128,070</b>	<b>117,606</b>

# Acknowledgments

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We really value the support of our funders, donors and individuals whose work helps us to continue to grow and develop our service.

## | Charitable Trusts and Grant Giving Organisations

Abbey's Charitable Trust  
Alchemy Foundation  
Austin & Hope Pilkington Trust  
Awards for All  
Baily Thomas Charitable Trust  
Batty Charitable Trust  
City Bridge Trust  
City Parochial Foundation  
Coutts Charitable Trust  
Freemasons' Grand Charity  
F B Laurence Charitable Trust  
Lloyds TSB Foundation  
London Councils  
The MS Society  
The Rowan Charitable Trust

## | Solicitors Firms and Companies

Allen & Overy  
Ashurst  
Care Choices Ltd  
Clifford Chance  
Linklaters



## | Marathon Runners

Paul Walkinshaw  
Tom Bainbridge  
Emma Russell

Emma Sutherland  
Christy Greenhalgh  
Matthew Hales  
Craig Timmis

## | Individuals

D.J. Brennan  
Mr Brooke  
A.G. Brown  
K.B. Coonan  
Mrs J.M. Crane  
C.A. Critchlow  
H.C. Elgot  
S.I.E. Freeman  
Mr J. Gage  
J. Gawthorpe  
J.M. Gibson  
Mr B. Gorman  
N. Green QC  
S.J. Griffiths  
M.M. Hales  
J. & A. Hornby

S.J. Irwin  
T. J. S. King-Smith  
Mr C. Lewis  
A. G. Macduff QC  
P.R. Main  
S.R. Martin  
S.K. Nairn  
M. O'Reilly  
J.R. Pitchford  
D. & A. Sanders  
Mr M. Sterne  
Ms P. Stocker  
L.T. & J.V. Watson  
H. Whitcomb  
M.A. Wonnacott  
Dr B.J. & Mrs S.E. Wright

Donate to DLS at  
[www.dls.org.uk](http://www.dls.org.uk)

# Who's Who at DLS

## | Board of Trustees

Joanna Owen Chair  
Jacqueline Beech Vice Chair  
Lynne Brooke  
Company Secretary  
Bob Jones Treasurer  
Catherine Collier  
Alastair Hill QC OBE  
John Horan  
John Lafferty  
Dr Amir Majid  
Michael Nedd  
David Phillips QC  
The Right Honourable The  
Lord Woolf of Barnes Patron

## | Volunteers

### Adviceline

Thomas Cheam  
Anuka Gazara  
Elaine Kedroff  
Judith Lyle  
Sain Oliver  
Dhanisha Patel  
Denise Palmer

### Legal

Hasan Bayat  
Marcus Blacker  
Mark Cooper  
Laura Cushnie  
Celine Fiquet

## | Staff Team

Linda Clarke Director  
Natalya Zarytska Finance  
& Administration Manager  
Amina Noor  
Receptionist / Administrator  
Chris Buck  
Communications Officer  
Christine Goodall  
Development Officer

### Legal Services

Jocelyn Murphy  
Head of Legal Services  
(Disability Discrimination)

Ben Fordham  
Alice Gartland  
Zoe Hughes  
Joanna Kiely  
Chris Lane  
Lily Malin  
Andre McClean  
Roslyn Moloney  
Michael Rabin  
Brendan Smith  
Camilla Tetlow  
Ellie Walsh

### Marketing

Elena Parson

Ian Steptoe  
Head of Legal Services  
(Social Welfare)  
Louise Ezeonyim  
Community Care  
Solicitor  
Wendy Grayson  
Welfare Benefits  
Solicitor  
Roy Kuku  
Employment  
Caseworker  
Roddy Slorach  
Disability Discrimination  
Caseworker  
Ellie Jones  
Casework Assistant

### Fundraising

Harry Stone

### Finance

Slavica Cica

### Auditors

Sayer Vincent  
8 Angel Gate, City  
Road  
London EC1V 2SJ

Special thanks to Elaine  
Kay, our Specialist  
Support Consultant,  
and Dr Marcia Purnell.

The DDA defines a person as having a disability for the purposes of the DDA where they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Public bodies, such as Government departments, local councils, and the police are currently covered by the DDA whenever they provide a service to the public (for example, a library or a sports centre) or in their capacity as an employer. But they are not currently covered whenever they carry out a function of government, such as assessing a benefit claim, issuing a licence, or carrying out an arrest.

Under the DDA 2005 private clubs with 25 or more members are covered by the DDA

in respect of their members, associates, guests, and prospective members and guests.

Landlords and managers of let residential premises are no longer able to refuse consent unreasonably if the tenant seeks permission to make a disability-related improvement at the tenant's expense.

Most disabled people in the UK are likely to qualify for some kind of welfare benefit or tax credit at one time or other, but many people miss out because they don't know what they can claim.

The DDA 2005 introduces a duty on all public bodies to promote equality of opportunity for disabled people. This means that they must take account of the needs of disabled people as an integral part of their policies, practices and procedures.

# Disability Law Service

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Registered Charity Number: 280805  
Company Registration Number: 1408520

This report is also available in large print, or on audio tape.