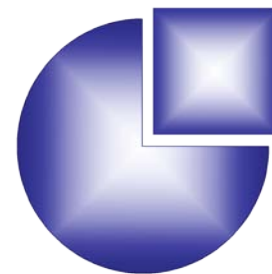


# Freeneay Williams Limited

---



**FREENEY WILLIAMS LTD**

<http://www.freeneaywilliams.com>

## **THE DISABILITY AND EQUALITY AGENDA E-BULLETIN – DECEMBER 2008**

For information about how Freeneay Williams Ltd can help your organisation achieve the disability and equality agenda please contact

[enquiries@freeneaywilliams.com](mailto:enquiries@freeneaywilliams.com)

Please forward this bulletin to a colleague so they can subscribe.

### **In this month:**

1. [\*\*NEW EMPLOYMENT AND SUPPORT ALLOWANCE\*\*](#)
2. [\*\*NEW RIGHTS FOR CARERS\*\*](#)
3. [\*\*“SICK NOTES” TO BE SCRAPPED\*\*](#)
4. [\*\*EMPLOYMENT TRIBUNAL PAYOUTS RISE TO £32 MILLION\*\*](#)
5. [\*\*COMMISSION CALLS FOR ACTION ON DISABILITY HATE CRIMES\*\*](#)
6. [\*\*DISABLED PEOPLE “BULLIED AT WORK”\*\*](#)
7. [\*\*MORE HOTEL ACCOMMODATION FOR DISABLED PEOPLE\*\*](#)
8. [\*\*LARGE SCALE REDUNDANCIES – HANDLE WITH CARE\*\*](#)
9. [\*\*THE MENTAL CAPACITY ACT EXPLAINED\*\*](#)
10. [\*\*GOVERNMENT’S MENTAL HEALTH PLANS MUST INCLUDE LINE MANAGERS\*\*](#)
11. [\*\*TUC SICKNESS ABSENCE GUIDANCE\*\*](#)

[\*\*BACK TO TOP\*\*](#)

### **Editor’s note:**

Well here we are again the end of another year. Next year will be interesting and challenging no doubt so have a great Christmas and New Year.

Rick

[\*\*BACK TO TOP\*\*](#)

## **1. NEW EMPLOYMENT AND SUPPORT ALLOWANCE**

The new Employment and Support Allowance (ESA) replaces Incapacity Benefit as part of the Government's shake-up of welfare reform. The ESA is seen as crucial in achieving the Government's aim of getting one million people off incapacity Benefit by 2015.

New claimants will have their capability for work assessed by health professionals, designed to look at what people can do rather than what they can't. People will also be required to take part in a back-to-work programme, including having a skills check and getting involved in work experience opportunities. For more information click:

<http://www.personneltoday.com/articles/2008/10/27/48112/employment-and-support-allowance-replaces-incapacity-benefit.html>

**[BACK TO TOP](#)**

## **2. NEW RIGHTS FOR CARERS**

### **Editor's note:**

Readers will know that I'm not often in the habit of inserting my own thoughts into the DEA however, on this occasion and for this case . . .!

This case has again been reported at best ambiguously and at worst wrongly. Ms Coleman successfully argued at the ECJ that all member countries should permit those associated with a disabled person to bring claims for direct discrimination and harassment. This meant that she had to go back to the employment tribunal in the UK to ask if she could now proceed with her case under the DDA.

Ms Coleman only has the right to now argue her case for direct discrimination and harassment against her former employer. She is therefore arguing that she was treated worse than carers of non-disabled children and this was direct discrimination, i.e. she was treated worse because her son is disabled and that she was harassed specifically for having a disabled son. It has yet to be decided if on the facts this was true.

Any reporting that suggests that this case gives carers more rights to flexible working is just wrong. It gives carers of disabled people the same rights to flexible working etc as carers of non-disabled people. So bear this in mind when reading about this case! Below is an article which gives more background.

Millions of people trying to combine work with caring for disabled or elderly relatives will have the right to claim against employers who discriminate against them in refusing to offer flexible working, following a ruling yesterday by the Employment Tribunal. Sharon Coleman, a legal secretary who was forced to resign because she

wanted more time to care for her disabled son, was told she would be able to claim before the English courts that she suffered "discrimination by association".

For more information click:

<http://www.guardian.co.uk/society/2008/nov/28/sharon-coleman-ruling-employment-tribunal>

### **[BACK TO TOP](#)**

### **3. "SICK NOTES" TO BE SCRAPPED**

The government is to scrap the sick note that GPs have used for 60 years to sign people off work. Sick notes will be replaced in England by electronic "fit notes", allowing doctors to say what work their patients can do as well as what they cannot. Sick leave costs the economy £100bn a year, including the loss of about 172 million working days. Read the full coverage at:

<http://www.guardian.co.uk/society/2008/nov/26/nhs-health-sick-notes-fit-notes>

The Employers' Forum on Disability welcomes this news and has made the following response:

<http://www.efd.org.uk/media-centre/media-releases/2008/efd-welcomes-fit-notes-help-disabled-people-stay-work>

### **[BACK TO TOP](#)**

### **4. EMPLOYMENT TRIBUNAL PAYOUTS RISE TO £32 MILLION**

Payouts for equal pay, unfair dismissal, and religious and sexual orientation discrimination jumped as total employment tribunal payouts hit £32m in 2006-07, new statistics have revealed. Disability discrimination payouts have remained steady over the same period. Read the full story at:

<http://www.personneltoday.com/articles/2008/11/10/48288/employment-tribunal-payouts-rise-to-32m.html>

### **[BACK TO TOP](#)**

## **5. COMMISSION CALLS FOR ACTION ON DISABILITY HATE CRIMES**

When Steven Hoskin, a 30-year-old with learning difficulties, was tortured and hung from a bridge by a gang last year, disability hate crime was put in the national spotlight.

On 6 October, the outgoing Director of Public Prosecutions, Sir Ken McDonald, gave a powerful speech demanding a greater effort from the Crown Prosecution Service, the Police and courts in recognising and prosecuting disability hate crime. The Commission's Disability Programme Director, Neil Crowther, responded to Sir Ken's speech from the platform by announcing a programme of research to examine disabled people's experience of violence and abuse.

This summer, The Commission hosted a roundtable event, which brought together disability and criminal justice organisations, including the Home Office, the Police and the Crown Prosecution Service, to discuss the issue and to identify shared priorities for action. [You can read a copy of Neil Crowther's speech here.](#)

The Commission intends to influence the cross-Government hate crime strategy, including working directly with the Office for Disability Issues.

In Scotland, the EHRC have prepared evidence for the Justice and Equal Opportunities Committees of the Scottish Parliament for a new bill which aims to tackle homophobic, transphobic and disability-related hate crime in Scotland.

### **[BACK TO TOP](#)**

## **6. DISABLED PEOPLE “BULLIED AT WORK”**

Disabled people are much more likely than the able-bodied to be hit, injured, bullied and humiliated at work, groundbreaking research for the Equality and Human Rights Commission has revealed.

Read more at:

<http://www.guardian.co.uk/society/2008/nov/27/disability-nhs-survey>

### **[BACK TO TOP](#)**

## **7. MORE HOTEL ACCOMMODATION FOR DISABLED PEOPLE**

A hotelier who specialises in providing accommodation for disabled people has made a £1.7m addition to his burgeoning empire in order to meet demand for holidays on the Fylde coast. He says he needs extra rooms in order to cope with demand from disabled people and their carers. Read more at:

<http://www.clitheroeadvertiser.co.uk/62/17m-investment-in-Prom-hotel.4688593.jp>

## **[BACK TO TOP](#)**

### **8. LARGE SCALE REDUNDANCIES – HANDLE WITH CARE**

Personnel Today has published advice on how employers must consider factors like disability if they are planning large-scale layoffs. Read more at:

<http://www.personneltoday.com/articles/2008/10/03/47759/large-scale-layoffs-handle-with-care.html>

## **[BACK TO TOP](#)**

### **9. THE MENTAL CAPACITY ACT EXPLAINED**

A clear and easy to understand DVD guide to The Mental Capacity Act (MCA) 2005, has been produced by a national charity for people with learning disabilities, HFT, for the Department of Health and Social Care Institute for Excellence. For more information click:

<http://www.medicalnewstoday.com/articles/123695.php>

## **[BACK TO TOP](#)**

### **10. GOVERNMENT'S MENTAL HEALTH PLANS MUST INCLUDE LINE MANAGERS**

The Employers' Forum on Disability welcomes the government's plans to use Access to Work funding to help people with mental health problems stay in work, and publishes research about line managers and mental health. More information at:

<http://www.efd.org.uk/media-centre/media-releases/2008/government-plans-for-mental-health-support-work-must-include-line-m>

## **[BACK TO TOP](#)**

### **11. TUC SICKNESS ABSENCE GUIDANCE**

The TUC has recently launched a very useful guide on sickness absence and disability. The guidance is a response to requests from Unions who find this

subject one of the most difficult to handle. The main areas of difficulty seem to be around the difference between disability leave, disability related sickness absence and sickness absence. The other area of difficulty is how much time employers should discount as disability related absence, and what the duties are around adjustments. To read the guide click:

<http://www.tuc.org.uk/equality/tuc-15361-f0.pdf>

(© Disability Forward Newsletter 13)

**[BACK TO TOP](#)**

To subscribe or unsubscribe click

<http://www.freneywilliams.com/dea-e-bulletin.asp>

© Freney Williams Ltd 2008  
37 Buckingham Road  
Brighton  
East Sussex  
BN1 3RP

T 01273 327715

F 01273 327715

<mailto:enquiries@freneywilliams.com>

**[BACK TO TOP](#)**