



Freeneey Williams

Freeneey Williams Ltd.

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The Disability and Equality Agenda e-bulletin – February 2009

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In this month:

1. [Disability in the workplace: the forgotten minority](#)
2. [Disability targets for public sector to be introduced this year](#)
3. [Bank ordered to put in lift for disabled customer](#)
4. [Disability discrimination case – knowledge of disability](#)
5. [Disabled staff networks](#)
6. [Absentees “must not be made to feel guilty”](#)
7. [Bill must recognise people with autism face discriminations](#)
8. [Mental illness – workplace prejudice is common](#)
9. [Disabled rights delay criticised](#)
10. [Equal pay – naming and shaming](#)

[Back to top](#)

1. Disability in the workplace: the forgotten minority

The Government has set some very ambitious targets for recruiting more disabled people in the workplace over the next two years, but what are employers actually doing about it?

It could be argued that the UK's approach to disabled workers revolves around a number of large-scale projects, such as the Local Employment Partnerships and £1bn Pathways to Work scheme, instead of offering the individual, tailored solutions that business and disabled people alike really need. For more information click:

<http://www.personneltoday.com/articles/2008/11/14/48339/disability-in-the-workplace-the-forgotten-minority.html>

[Back to top](#)

2. Disability targets for public sector to be introduced this year

Public sector employers will be required to recruit more people with mental and learning disabilities to meet government targets to be introduced later this year. The Government's White Paper on social mobility reveals that the sector will be required to alter hiring policies and recruit more disabled people. For the full story click:

<http://www.personneltoday.com/articles/2009/01/22/49104/disability-targets-for-public-sector-to-be-introduced-this.html>

[Back to top](#)

3. Bank ordered to put in lift for disabled customer

A young disabled man has been awarded £6,500 in compensation – a record amount - for having to put up with the embarrassment of discussing his finances outside in the street because his bank was not accessible to him. 17 year old David Allen was advised by the bank that he could use a different branch 10 miles away.

In addition, the judge gave the Royal Bank of Scotland an injunction obliging them to install a lift. This is the first time that a judge has taken action to compel an organisation to change their building to make it accessible. Mr Allen was supported by the Equality and Human Rights Commission and Sheffield Law Centre to take his case.

The judge said: "In the light of the findings, I have made it plain that David has suffered from discrimination and that he has suffered from considerable embarrassment caused by the Bank". For more information click:

<http://www.equalityhumanrights.com:80/en/newsandcomment/Pages/landmarkaccessibilityruling.aspx>

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[Back to top](#)

4. Disability discrimination case – knowledge of disability

A recent Employment Appeal Tribunal case has shed some more light on the complicated question of knowledge of disability. Section 4A(3) of the Disability Discrimination Act 1995 provides that an employer is exempted from the duty to make reasonable adjustments if he did not know, and could not reasonably be expected to know, that someone is likely to be placed at a substantial disadvantage by a disability. This defence is often used by prospective employers defending allegations of failure to make reasonable adjustments when (not) offering a job.

In [Eastern & Coastal Kent PCT v Grey](#), the EAT has held that this requires *each*, not merely one, of the following four criteria to be satisfied, namely that the employer:

- does not know that the disabled person has a disability
- does not know that the disabled person is likely to be at a substantial disadvantage compared with persons who are not disabled;
- could not reasonably be expected to know that the disabled person had a disability; and
- could not reasonably be expected to know that the disabled person is likely to be placed at a substantial disadvantage in comparison with persons who are not disabled.

This is a key case, and hopefully places more onus on employers or prospective employers to consider the disadvantages that disabled people may encounter in the recruitment process, and to plan in advance to either remove this disadvantage in the design of the process or by making appropriate reasonable adjustments for disabled applicants.

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[Back to top](#)

5. Disabled staff networks

Disabled staff networks are a vital method of sharing disability best practice. Creating a disabled staff network will empower your disabled staff members. Staff networks also allow non-disabled staff members to benefit from disabled employees' experience.

The Employers' Forum on Disability (EFD) has endorsed the launch of a new guide from Kate Nash Associates about staff networks – "Disabled Employee Networks – A Practical Guide". You can download the publication here:

<http://www.efd.org.uk/employment/disability-networks>

[Back to top](#)

6. Absentees "must not be made to feel guilty"

Employees that take time off work through illness or disability must not be "made to feel guilty" about being absent, it has been stated.

Gill Trevelyan, the head of good practice services for the Advisory, Conciliation and Arbitration Service, said that going into work while feeling sick can cause further

problems. This "can often make an illness worse and require a longer time off than taking action", she remarked.

But employers must be kept informed of the situation so they can provide cover, Ms Trevelyan noted, adding that there are a number of measures companies can take to boost the wellbeing of employees. For further information click:

<http://efd.org.uk/media-centre/news/3908/absentees-must-not-be-made-feel-guilty>

[Back to top](#)

7. Bill must recognise people with autism face discrimination

The National Autistic Society (NAS) has warned that measures proposed in the Welfare Reform Bill could "damage the employment prospects" of more than 300,000 adults with autism. The Bill, which received its second reading at the House of Commons last week, proposes a tougher benefits regime that would require many disabled people claiming the Employment Support Allowance to undertake specific work-related activity or else face a series of sanctions. Read more at:

<http://www.nas.org.uk/nas/jsp/polopoly.jsp?d=2074&a=18637>

[Back to top](#)

8. Mental illness – workplace prejudice is common

One in seven people in the UK experience a mental illness at some time in their lives, so why should it be such a big problem? A recent survey by the charity Shaw Trust suggested that more than half of all employers would not hire someone with a known mental disorder, while 80% thought this to be "a risk" in a customer-facing role. Read more at:

<http://www.guardian.co.uk/money/2009/jan/20/mental-illness-discrimination-at-work>

[Back to top](#)

9. Disabled rights delay criticised

The UK Government has been criticised for failing to bring new rights for disabled people into law. Ministers were supposed to have ratified the UN Convention on the rights of people with disabilities by the end of 2008.

A committee of both Houses of Parliament said this was "extremely disappointing" and risked "alienating" disabled people. For more information click:

<http://news.bbc.co.uk/1/hi/uk/7810211.stm>

[Back to top](#)

10. Equal pay – naming and shaming

Companies could be "named and shamed" in league tables revealing pay inequalities between male and female employees under government plans to tackle the gender pay gap.

The government's equalities office is drawing up an amendment to the equality bill that would force companies to publish figures in annual accounts showing the number of men and women in particular pay bands. The bill is due to be published early this year. Read more at:

<http://www.guardian.co.uk/money/2009/jan/06/equality-bill-pay>

[Back to top](#)

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

T 01273 327715
F 01273 327715
<mailto:enquiries@freeneywilliams.com>

[Back to top](#)