



Freeneys Williams

## **Freeneys Williams Ltd.**

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### **The Disability and Equality Agenda e-bulletin – November 2009**

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

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#### **In this month:**

1. [\*\*EHRC publishes new guidance on Disability Equality Schemes\*\*](#)
2. [\*\*England's first ever "disability-specific" law passed\*\*](#)
3. [\*\*European Commission floats idea of web accessibility legislation\*\*](#)
4. [\*\*Mental health stigma\*\*](#)
5. [\*\*Disallowing disability benefit hasn't worked\*\*](#)
6. [\*\*Volunteers not covered by Disability Discrimination Act\*\*](#)
7. [\*\*The disability paradox\*\*](#)
8. [\*\*Talent pool of disabled high fliers identified in British business\*\*](#)
9. [\*\*IT accessibility\*\*](#)
10. [\*\*Employment Tribunal statistics\*\*](#)
11. [\*\*Equality Bill update\*\*](#)
12. [\*\*Bullying in the workplace\*\*](#)
13. [\*\*Resolving conflict through mediation\*\*](#)
14. [\*\*Recent cases\*\*](#)

#### [\*\*Back to top\*\*](#)

#### **1. EHRC publishes new guidance on Disability Equality Schemes**

The Equality and Human Rights Commission has published new guidance to help public authorities revise their Disability Equality Schemes: "Using your revised disability equality schemes to improve the lives of disabled people".

This guidance aims to help public authorities develop and implement an effective disability equality scheme. It also highlights key issues that the Commission expects to see reflected in revised disability (or single) equality schemes.

All listed public authorities who are required to publish their Disability Equality Schemes, need to review and publish a revised scheme once every three years. For

the majority of public authorities, the date to publish a revised scheme will be 4 December 2009.

This latest guidance follows general guidance on revising disability equality schemes that the Commission released in August. View the guidance at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/news-and-updates-on-the-duties/latest-additions-and-updates/>

[Back to top](#)

## **2. England's first ever "disability-specific" law passed**

Some people with autism have spent over a decade without a job or benefits, and only one in ten with the condition has a full-time job, according to the National Autistic Society. Campaigners have called for a strategy to tackle the 'woeful' number of people with autism in unemployment. The Autism Bill passed its final stage in the House of Lords early this month to become England's first ever disability-specific law, meaning health and social care services could face legal action if they fail to provide support for people with the condition. Read more at:

<http://tinyurl.com/yjghv6a>

[Back to top](#)

## **3. European Commission floats idea of web accessibility legislation**

The European Commission has proposed legislating to ensure that all EU nations adopt accessibility rules designed to ease disabled people's access to the web.

Information Society and Media Commissioner Viviane Reding has for the first time talked of a 'European Disability Act' that could compel EU nations to adopt web accessibility rules together so that all of Europe's websites become accessible at the same rate.

"We cannot achieve the Single Market by leaving aside certain parts of our population," said Reding in a speech on October 1. "I am talking about e-accessibility: 15% of our population is disabled and our rules on accessibility are still fragmented.

"We should in my view encourage the European-wide adoption of the global web accessibility standard, the new Web Content Accessibility Guidelines (WCAG)," she said. "We should do it together and in step so that the online services industry can reap economies of scale and the users get a decent and reliable framework. I believe the way we should do this is to develop together with stakeholders a European Disability Act." For the full story click:

<http://www.out-law.com/page-10418>

[Back to top](#)

#### **4. Mental health stigma**

With 92% of Britons believing that admitting mental illness harms their career, we must protect employees and job hunters with mental health problems from employers who are prejudiced about their ability to work. 56% of those questioned would not employ an individual, even if they were the best candidate, if they had a history of mental illness. Read more at:

<http://bit.ly/10QymP>

[Back to top](#)

#### **5. Disallowing disability benefit hasn't worked**

The new employment and support allowance aims to test 10,000 claimants a week for signs of employability. It has already disallowed two-thirds of new claimants and is keeping longer-term recipients in its sights.

We have been here before. Peter Lilley introduced incapacity benefit (IB) in 1995, when he was the Tories' social security secretary, in order to replace invalidity benefit and put recipients through a new all-work test. Those found fit enough for any kind of work were put on to jobseeker's allowance instead. What happened to them? Find out at:

<http://tinyurl.com/yfqx37g>

[Back to top](#)

#### **6. Volunteers not covered by Disability Discrimination Act**

X v Mid-Sussex CAB is authority for the proposition that 'volunteers' (such as unpaid charity or CAB workers) are not protected by the Disability Discrimination Act or the EU Framework Directive.

The Claimant was a volunteer part time advisor at the CAB. She had no contract. She left in circumstances which she alleged amounted to discrimination on grounds of her disability. She argued she was protected by the EU Directive, and that the DDA should be 'read down' to provide that protection.

Burton J, in the EAT, held that her claim should be struck out. He held "employment" in the Directive requires a material contract between the parties. He observed there was no jurisprudence to suggest that "occupation" meant unpaid employment; also, that the Directive offered protection only in relation to "access" to occupation. He held the Directive was not intended to protect volunteers in the Claimant's position and declined to make a reference to the ECJ on the point.

(Thanks to Will Dobson of Cloisters for this case summary and to Daniel Barnett)

[Back to top](#)

## 7. The disability paradox

Despite nearly 15 years of new legislation, the results of a new survey reveal that disabled people in the UK are facing rising levels of poverty and discrimination. Yet many disabled people believe things are getting better. What explains the contradiction? Find out at:

<http://tinyurl.com/ygecgl4>

[Back to top](#)

## 8. Talent pool of disabled high fliers identified in British business

RADAR, the UK's largest disability campaigning network, has conducted the first ever survey of disabled people holding senior management roles across the private, public and voluntary sectors.

The findings of the research, which was supported by Lloyds Banking Group, identified a significant talent pool of 'disabled high fliers', with 110 earning £80,000 a year or above and a further 186 earning from £40,000 to £79,999.

Many of the respondents have significant, longstanding impairments, including paraplegia, multiple sclerosis and bi-polar disorder. Those surveyed agreed overwhelmingly on the factors that enabled them to progress - mentoring and career-long support from senior managers, in other words senior people prepared to back their careers, not limit their ambition.

Despite the presence of talented disabled workers amongst the upper echelons of British business, the findings also highlight a continued inequality in the workplace. For example,

- Non-disabled people were over 3 times more likely than disabled people to earn £80,000 or above; and twice as likely to be Board-level directors.
- Disabled people were significantly less likely to get mentoring and senior support – the very supports that the disabled high fliers said made such a difference to their progression.
- There are also inequalities between disabled people. Those with mental health conditions were significantly less likely than other disabled people to earn £80,000 or above and to be Board-level directors; as were women, reflecting wider gender differences in the labour market.
- 75 per cent of those disabled people who could keep a disability or health condition hidden at work did so sometimes or always. For some this was because they saw the impairment as irrelevant to their work lives. But others, especially with mental health conditions (who were nearly four times more likely than other disabled people to be open to no one at work) feared being pigeonholed, stereotyped or stopped from progressing.

Liz Sayce, Chief Executive of RADAR, said: 'There is no huge pile of books on the disability glass ceiling or disability pay gap – because expectations of disabled people have been so grindingly low. Even Government targets focus on 'inclusion of

disabled people in the workplace' rather than supporting careers and talent. But the disabled high fliers in this study show what can be achieved and how; and companies are realizing that they need all the talents they can find to come out of the recession strong. It is alarming that so many people in this survey feared that if others at work knew their 'secret' their careers would be jeopardized. As the Equality Bill goes through Parliament, we urge Government, employers, educationalists and disabled people themselves to learn from the disabled high fliers, raise expectations – and break down fears'.

[Click here to read the Executive Summary](#)

[Back to top](#)

## **9. IT accessibility**

Microsoft's new operating system Windows 7 has been launched, and the company has incorporated more accessible features into it. Take a look at whether these new features meet the needs of disabled customers at:

<http://tiny.cc/rW1Gy>

[Back to top](#)

## **10. Employment Tribunal statistics**

The Tribunals Service has published the final version of the employment tribunal statistics for 1 April 2008 to 31 March 2009. Read more at:

<http://tinyurl.com/y9jkv3h>

[Back to top](#)

## **11. Equality Bill update**

Take a look at progress with the Equality Bill, its chances of becoming law and what it would mean if it did. Click:

<http://tinyurl.com/y8sa9sx>

[Back to top](#)

## **12. Bullying in the workplace**

The government has been urged to act following figures showing harassment of disabled people in the workplace is rife. Read more at:

<http://tinyurl.com/ykqpexu>

[Back to top](#)

### **13. Resolving conflict through mediation**

Employment legislation now advocates the use of mediation to settle grievances. But what does the process involve and, more importantly, does it actually work? Read about it at:

<http://tinyurl.com/ylaly3b>

[Back to top](#)

### **14. Recent cases**

#### **i. Tribunal/Coleman case**

Private sector carers will now be afforded the same rights as those in the public sector following a landmark employment tribunal ruling last month. The ruling *Coleman v Attridge Law* will enable private sector carers to make a claim under the Disability Discrimination Act (DDA) for discrimination against them on account of their caring duties for a disabled person. For more information click:

<http://tinyurl.com/yakfx8e>

#### **ii. RBS ordered to improve wheelchair access**

The Royal Bank of Scotland has been ordered to carry out £200,000 of work to improve wheelchair access at one of its branches after senior judges ruled that it had breached disability laws. Read more at:

<http://tinyurl.com/y8ewq6l>

[Back to top](#)

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[Back to top](#)