

Westminster Hall debate: Enforcement of equalities legislation relating to guide dogs

5 September 2018

Introduction

The Equality and Human Rights Commission (the Commission) has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

This briefing sets out the types of unlawful discrimination and the enforcement mechanisms available for those who have been unlawfully discriminated against on the grounds that they use an assistance dog.

What is unlawful discrimination?

Thousands of disabled people rely on assistance dogs to help them with day to day activities. It is not only visually impaired people that are helped by assistance dogs: they are also trained to help people with a range of other conditions including hearing difficulties, epilepsy, diabetes and mobility problems.

The Equality Act 2010 makes it unlawful to discriminate against disabled people who use assistance dogs in the following ways:

- Direct discrimination: treating a person less favourably than others because they are disabled.
- Indirect discrimination: where a particular policy has a worse impact on disabled people than others, e.g. a blanket 'no dogs' policy will have a worse impact on disabled people using assistance dogs than

on others. This could be unlawful unless the policy can be objectively justified.

- Failure to make reasonable adjustments: failing to take reasonable steps to remove something that puts a disabled person at a disadvantage. The Act does not prescribe what a reasonable adjustment might be; this will depend on the particular circumstances of each case.
- Discrimination arising from disability: discrimination for any reason connected to the person's disability that is not covered by other forms of discrimination. This could be unlawful unless the policy can be objectively justified.
- Harassment: treating someone in a way which makes them feel humiliated, offended or degraded for reasons relating to their disability.
- Victimisation: treating someone who may or may not be disabled badly because they have made a complaint of discrimination.
- Discriminatory advertisements: advertising a service that will treat disabled people unfavourably.

It would be unlawful to refuse service to a disabled person accompanied by an assistance dog other than in the most exceptional circumstances.

How is equalities legislation enforced?

The primary mechanism for enforcing the Equality Act is for individuals to bring a claim in the county court or, if the discrimination happened at work, in the employment tribunal. If the claim is successful, the court or tribunal may grant an injunction, make a declaration or recommendation, or order that compensation be paid. Compensation for injury to feelings tends to be reasonably low, usually in the hundreds or low thousands for one-off or less serious incidents, so individuals may not feel it is worth the time and money to pursue a claim. Advice on discrimination matters is available from the [Equality and Advisory Support Service](#).

Legal aid is available for discrimination cases, subject to certain criteria. However changes to the law following the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) now require most people to access this support via the Civil Legal Advice telephone gateway; after this was introduced, provision of initial legal aid

for discrimination cases dropped by nearly 60% and has continued to fall since.

The Commission is a strategic enforcer of the Act, with the power to investigate suspected breaches, carry out assessments of compliance by public bodies with the Public Sector Equality Duty, and assist individuals to bring cases. Last year, in order to gather evidence about disability discrimination cases and support individuals to access justice, the Commission provided funding of £189,000 in 118 cases of disability discrimination.

The Commission's powers are intended to be used in a targeted way to address widespread and systemic injustice, rather than filling gaps where individuals are unable to take a claim themselves. Access to justice is a key strategic priority and we have made a full submission in response to the Government's post-implementation review of the impact of LASPO, which is available on our [website](#). The submission identifies evidence in relation to the impact of LASPO on access to justice, and on access to redress for human rights breaches and discrimination. The Commission calls on the Government to take action to address any negative and disproportionate effects resulting from changes to legal aid under LASPO.

Further information

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about the Commission's work at: www.equalityhumanrights.com.

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