Disability Discrimination...in real life and in public law

Public Law Project

Cardiff – March 2018
Sara Lomri – Deputy Legal Director at PLP @SaraLomri
Audrey Ludwig – ISCRE and Founder of Suffolk Law Centre @Suffolklawcentr
Lara Prothero-Whittaker– Newport CAB and Discrimination Lead @NewportCABDiscrimin
Equality Act 2010

1. Direct Discrimination
2. S.15 Discrimination arising from Disability
3. Indirect Discrimination
4. Duty to Make Reasonable Adjustments
5. Harassment & Victimisation

via Employment Tribunals, County Court claims and judicial review in the High Court

*All in force – examples from practice*
6. Public Sector Equality Duty

In force – examples from practice
7. Combined Discrimination or An Intersectional Approach

*s.14 Equality Act 2010 - Not in force*

There is no such thing as a single-issue struggle because we do not live single-issue lives.

Audre Lorde
• Ratified but not incorporated
• Principles of respect for dignity, non-discrimination, participation and inclusion, respect for difference, equality of opportunity, and accessibility
• Includes Article 19 – living independently – Article 20 – personal mobility and Article 28 – adequate standard of living and social protection
• Complaints by UK activists triggered UN Committee on Rights of Persons with Disabilities first inquiry into member state – reported October 2016
• UN Committee’s Concluding Observations in October 2017 found laws, regulations and practices that discriminate against persons with disabilities:
Disability Discrimination in Public Law...

• Mathieson v SSWP [2015] 1 WLR 3250 - Article 14 prohibits discrimination in the enjoyment of Convention rights on the grounds of status

• Is discrimination objectively justified? *Bank Mellat v HM Treasury (No 2) [2014] AC 700* x4 limbed test, which must be satisfied to overarching standard of “manifestly without reasonable foundation”?  
  • See *R (Carmichael) v Secretary of State for Work and Pensions [2016] 1 WLR 4550* – Bedroom tax case; and  
  • *R(RF) v Secretary of State for Work and Pensions with MIND and EHRC [2017] EWHC 3375 (Admin)* – PIP regulations case
Disability Discrimination in Real Life

• Audrey Ludwig – Ipswich and Suffolk Council for Racial Equality (ISCRE) and Founder of Suffolk Law Centre @Suffolklawcentr
  • Challenges of assisting with disability discrimination in rural areas
  • Referral networks and working with NGOs

• Lara Prothero-Whittaker – Newport Citizens Advice Bureau @NewportCABDiscrimin
  • Challenges of assisting with disability discrimination in South Wales
  • Referral networks and other advisers
Thank you

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S.Lomri@publiclawproject.org.uk