

Tuda News

JanJanuary 2005

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What is Trade Union Disability Alliance (TUDA)?

TUDA is the **Trade Union Disability Alliance**. The aims of **TUDA** are as follows:

- To coordinate the voice of disabled people in the trade union movement.
- To relieve the disability of people with physical, mental or sensory impairments and further their independence and full participation in the workplace and wider community.

What influence do we have?

17 TUC affiliates, including the big four (Amicus, UNISON, T&G & GMB) are affiliated to **TUDA** on a national basis. Many other union branches, regions and individual members are members of **TUDA**.

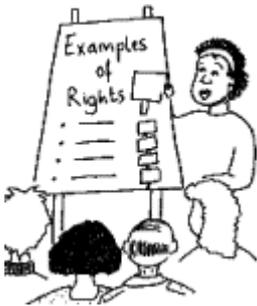
We have many members who hold influential positions in the labour and trade union, and in the disability movement. While we cannot claim to have the power to change the world of disabled people, we are confident that we punch above our weight.

Are you a trade union member? Do you want to know more about who we are and what we do? Please contact our membership secretary, Sherrell Brett, at the contact address to receive more details:

Look at our new web site, www.tuda.org.uk

In memory of Lesley Child -

Lesley was a dear friend, a founder member of TUDA, long time executive member and for a number of years Vice Chair. Her many friends, family and comrades in the movement are shocked and sad at her death on Christmas Day from pneumonia. As a long-term disability activist (in her local associations and on BCOBP National Executive) and a committed trade unionist she exemplified TUDA's principles. She was a gifted trainer, and her humour, intelligence and just her way of getting things done will be greatly missed. TUDA members hope to organize a memorial for Lesley around our AGM on 7th May.



As a Disabled Trade Unionist, what are my rights?

The Disability Discrimination Act 1995 (DDA) makes it unlawful for an employer to discriminate against you because of your disability or long-term health condition.

Who is disabled under the DDA?

The definition of disability is unnecessarily complex and does not reflect the social model. Nevertheless, it has been held to apply to people with many conditions from dyslexia, depression and other forms of mental illness, autism and other forms of learning disability to RSI, arthritis, diabetes and chronic fatigue syndrome.

A diagnosis will not in itself automatically mean that you are protected by the DDA. If you have to assert your rights in an employment tribunal, you will usually have to show that your condition has a long-term (or

recurring) and substantial impact on your ability to function (discounting coping strategies or the impact of medication).

It is a very complicated definition, which we have simplified here, and so if you think you have been discriminated against you should take specific advice on whether the DDA applies to you from the Disability Rights Commission (DRC) free Help line - see below

What are my employment rights under the DDA?

The employer has a duty to make 'reasonable adjustments' to premises and working practices to ensure that you are not at a substantial disadvantage compared to others. This covers every aspect of employment, including:

- the recruitment process
- promotion and career development
- the terms and conditions of your employment
- Benefits

Your rights under the DDA also cover:

- unfair treatment compared to other workers
- harassment and victimisation
- unfair dismissal

Can the DDA help me if I am faced with disciplinary action?

It is unlawful for your employer to take disciplinary action against you for poor performance or inappropriate conduct if your disability is in any way relevant. If your disability is not relevant, and your behaviour would not have been different if reasonable adjustments had been made, then disciplinary action is not likely to be considered to be discriminatory.

Does my employer have to make reasonable adjustments during the disciplinary process?

Your employer has to treat you fairly and make reasonable adjustments, such as:

- giving you time to prepare for the proceedings
- making all communications available in a format accessible to you
- keeping you informed of what, and why the process, is happening
- providing a reader, qualified sign language interpreter, or advocate, if not having them would put you at a disadvantage.

When is it lawful for my employer to dismiss me?

If no further reasonable adjustments can be made, for you to perform better or behave in a more appropriate way, your employer has to consider moving you to a more suitable job as an alternative to

dismissal. But, if redeployment is impossible because the business is small, for instance, dismissal is likely to be considered fair.

There are a few other circumstances in which your employer can terminate your contract:

- if you have been absent for a long time and there is no effective reasonable adjustment, or you are unlikely to return to work in the foreseeable future. It may however be appropriate to discuss the possibility of early ill-health retirement. If you are part of a pension scheme, or if you have a private health insurance you may be able to make a claim
- if your disability or health condition creates a substantial risk to yourself or others, you can be dismissed on health and safety grounds. However, prior to dismissal your employer will have to show that they considered all other possible reasonable adjustments including redeployment.

Trade unions must not discriminate against disabled members. For example, they must make reasonable adjustments to their rules and services such as publications and conferences.

Further Details

Contact the Disability Rights Commission (DRC) help line for free advice if you feel that you have been treated unfairly.

Post: Freepost MID 02164, Stratford-upon-Avon CV37 9HY.

Telephone: 08457-622633

Text phone: 08457 622 644,

Website: www.drc-gb.org

Image courtesy of the Change Picture Bank

Latest news from the Disability Rights Commission



Appeal Court rules airport and airline jointly responsible for disabled passengers

Tuesday, December 21, 2004

In a landmark ruling today, the Appeal Court has found that Ryanair and Stansted Airport are both responsible for providing a free wheelchair service to disabled travellers. The ruling will have an impact on every

British airport and airline and will ensure disabled people receive the same standard of service as non-disabled travellers.

The Court of Appeal found that both airline and airport were responsible for ensuring Bob Ross, a disabled passenger, could move from the check in desk to the aircraft at Stansted Airport. The judges found that both companies had discriminated against Mr Ross for charging him for the use of a wheelchair.

The Disability Rights Commission (DRC) has supported Mr Ross in his case against Ryanair and Stansted Airport.

Mr Ross, from London, was charged £18 for a wheelchair when he flew with Ryanair from Stansted Airport in 2002 to Perpignan in France. Mr Ross, who has cerebral palsy and arthritis, is unable to stand for any considerable time and needs to use a wheelchair when moving through the crowds and queues at Stansted.

The Appeal Court overturned an earlier ruling that found that Ryanair was unlawful in charging Mr Ross for the use of a wheelchair.

Bob Ross said today: 'It's been clear to me all along that I was treated unfairly by having to pay more to fly than non disabled people.

Chairman of the Disability Rights Commission, Bert Massie said today: 'This decision sends a signal to every airport and airline that disabled people will no longer put up with a second class service. And that they have the firm backing of the law to ensure that fair treatment prevails.'

The DRC knows of thirty disabled people who were charged for a wheelchair under similar circumstances to Mr Ross. Stansted Airport and Ryanair now need to ensure these passengers are compensated for having to pay the wheelchair charge.

The legal case was taken under Part 3 of the Disability Discrimination Act 1995. The DRC believed that by making a disabled person pay for a wheelchair, Mr Ross was treated less favourably because of his disability.

Disability Discrimination Bill welcomed but DRC urges action on housing shortage

Friday, November 26, 2004

A Disability Bill, including much needed changes to the definition of disability and extending new rights to disabled people using transport, was warmly welcomed by the Disability Rights Commission.

But, in welcoming the Bill, the DRC's Chairman Bert Massie voiced concern that the crisis faced by disabled people needing adaptations to their housing would continue unless urgent measures were included in the new legislation.

The DRC estimates that some 18,000 disabled people are living in unsuitable accommodation because of landlords' refusal to agree to vital adaptations that would ensure that disabled people could live independent lives. The DRC is seeking an amendment to the Bill that would ensure that consent to make adaptations could not be unreasonably refused.

Chairman of the DRC, Bert Massie said: 'We warmly welcome the Government's introduction of the new Bill and look forward to its passage through Parliament. However, housing is a vitally important issue, as thousands of disabled people living in unsuitable accommodation have been refused permission to make essential adaptations to their homes. The DRC will seek an amendment to the Bill and with it, eliminate the anxiety, stress and hardship caused to disabled people.'

The Disability Discrimination Bill will pave the way for a substantial advance of civil rights for Britain's 10 million disabled people by 2006 and reflects a major step forward in ending the discrimination disabled people experience when trying to travel in Britain.

Mr Massie continued: 'The transport provisions are great news for disabled people and, if implemented by the Government, will close a major loophole in the Disability Discrimination Act (DDA). (Editors Note: Come on Bert, can we really wait until 2020- that's the time I want to catch accessible transport, not the year!!) The Government has been committed to introducing basic civil rights for disabled people using public transport since the 1997 manifesto so it's been a long journey that is coming to an end. There is much in this Bill that will significantly improve the lives of Britain's 10 million disabled people and I look forward to working with the Government to ensure the Bill becomes law in this session of Parliament.'

Plans outlined in the Bill to remove a major barrier making it difficult for people with mental health impairments to take cases under the Disability Discrimination Act (DDA) were also welcomed by the DRC today.

'Many people with mental health impairments had to experience embarrassment, ignominy and stress when bringing cases under the DDA. In many circumstances they were legally defined as not being covered by the law and denied their rights because their condition was not clinically recognised. The change announced today, which I warmly welcome, will finally end this perverse injustice and ensure that people with mental health problems are granted the same protection under law as other disabled people.'

(Note from Editor, watch out for the public consultation on the DRC draft code of practice explaining what is meant by the new

public sector duty to promote equality!! Word is it will be published later in January).

Forthcoming Events: Advance warning , the Trade Union Disability Alliance Annual General Meeting will take place on the Saturday 7th May 2005, venue to be advised, further details will follow in separate mailing from the Secretary.

And it's goodbye from Sheila , after being on the TUDA executive for almost 8 years I have to tell you that after this Mayís AGM I will be retiring from TUDA. I will remain a member and will follow future progress with interest!

TUDA joins the World Social Forum

Over three days in October Alexandra Palace in London was host to 25 000 activists from around Europe (and some from beyond). This was the third European Social Forum, and is part of the World Social Forum that brings together social, trade union and political activists struggling for justice across the world.

TUDA, along with BCODEP and Independent Living Alternatives ran two really well attended seminars. One on fighting for disability equality across Europe featured impassioned speakers from, amongst others, Mad Pride Yorkshire and London Deaf Forum. TUDA's Co Chair, Caroline Gooding, spoke on the need for a European Directive. The second seminar was called a New Welfare State Is Possible and looked at whether a laboratory framework for the provision of support for disabled people in Europe is possible. It charted the struggle for a right to Independent living and personal assistance. Amongst a wide range of speakers, including Dave Morris from National Centre for Independent living, Ramûn Morales, a disability activist from Mexico and TUDA and NUT member Richard Reiser.

These were the only seminars (out of hundreds on the programme) on disability rights, and many in the audience expressed their surprise that there wasn't a stronger representation of disabled people, and their gratitude for the seminars which we had organized.

The access was very difficult. Not so much for people with mobility impairments but for people with hearing impairments or any difficulties in concentration. The noise from other workshops divided only by panels made it difficult to follow speakers and there were a

wholly inadequate numbers of sign language interpreters. The thick smog of smoke by the evening also caused problems for many.

But it was worth it. It was exhilarating talking to social activists from across Europe and disabled people must be at the heart of the struggle to change Europe - the world - into a better place for all. The next European Social Forum will be in Athens in 2006 - Any one for some humus and ouzo?

Disability champions

Everyone was in celebratory mood at Amicusí office in King Street, London, where the Amicus Disability Champions @ Work conference was held. Disability Champions, employers and work place representatives met to celebrate the success of the project.

For 18 months, Amicus has been running the Disability Champions @ Work project, which aims to train workplace representatives to become disability specialists where they work. These Champions are at the forefront of making workplaces truly inclusive for disabled people. Amicusí original target was that 50 reps. would volunteer to be trained as Champions in the first year. That target was met in the first five months of the project. Amicus now has over 90 Disability Champions in workplaces where it is organised.

The 60 delegates attending the conference listened to speakers who highly praised their efforts to negotiate best practice for disabled people where they work. Maria Eagle, Minister for Disabled people, said that this project was exactly what was needed in order to deliver the governmentís equality agenda for disabled people at the workplace, by actually putting the law in to practice, in partnership with employers.

Richard Howitt, MEP and President of the European Parliament All Party Disability Group added that this project is what is needed to make disabled workers aware of their rights at work, as many people are unaware of their employment rights. Lucy Anderson, Amicus Deputy General Secretary, paid tribute to Amicus workplace reps. Dave Williams, an Amicus Disability Champion, and Amanda Dillon; a representative of his employer, CIS, both outlined how they had been able to make real changes in the workplace by working together.

Training has been rolled out to workplace reps from other TUC affiliates, for example, UNISON, the ISTC, and the GMB. The project has greatly surpassed the expectations of those Amicus reps that initiated it. It has now become an essential part of the skill-set of activists from across the trade union movement.

Up to date information about the project, and contact details for those involved, can be found on the website behind the project, www.disabilitychampions.com

Wouldn't you like to explain the physical features which actually prevent you from taking part in day to day activities? Well this is a draft letter from client to a service provider you may want to use.

Dear

Re: Disability Discrimination Act (DDA)

On ... **(date)**, I was unable to use **(Describe service)** at **(address)**.

This is because **(Describe the physical feature preventing you from accessing the service and explain why, e.g. the *only entrance to your premises is via a flight of steps. I am a disabled person...* as a result, it is impossible or unreasonably difficult (delete as appropriate) for me to access your premises and use your services.**

(You may want to include a couple of brief lines explaining any inconvenience, distress or discomfort which you experienced as a result of being unable to access the premises).

As I am sure you are aware, the Disability Discrimination Act says that where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of any service which is offered to the public, a service provider must take reasonable steps to:

- Remove the feature, or
- Alter the feature, or
- Provide a reasonable means of avoiding the feature, or
- Provide a reasonable alternative method to making the service available to disabled people.

Please could you tell me what steps you have already taken to meet this legal duty?

In particular, what action do you intend to make to alter, remove or avoid..... **Describe physical feature, which prevented you from using the service?**

When do you expect this work to start and be completed?

If no such work has been carried out or is planned, please could you explain the reasons why?

Please could you also explain any other steps you intend to take so that disabled customers like myself can have access to your services on the same basis as non-disabled people?

I look forward to receiving your reply within 14 days. If I do not receive a reply within 14 days I reserve the right to take action under the Disability Discrimination Act.

Yours faithfully

Insert your name and address here.

**I wish to receive more Information about TUDA: -
Please send to: 36 Rose Lane, Liverpool, L18 5ED**

Name
Post (if applicable)
Trade Union
Address:
Post Code
E mail:

Preferred format:

Standard Print
Large Print size
BSL Video
Print Braille
Disc Audio

Membership Fees:

Individual Disabled Person	£7.00
Supporting Subscriber	£10.00
Union Branch	£25.00
Union Region	£50.00
Union National	£100.00

Donation:

Please make cheques payable to Trade Union Disability Alliance.

The views expressed in this Newsletter are not necessarily the views of the unionís represented on the TUDA Executive Committee' but reflect the opinion and policies of most of them.