

# **ANNUAL REPORT 2016-2017**

**Presented to the  
Annual General Meeting**

**Held at  
7br Chambers  
7 Bedford Row  
London WC1R 4BS**

**on Tuesday 20th February 2018  
at 6:00pm**

**Discrimination Law Association**

**Company Limited by Guarantee 3862592  
Incorporated in England & Wales  
Registered Charity Number 1124892**



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# 1. History and Aims

At a time when much of the public funding for supporting victims of discrimination has either been removed or is under serious threat, the Discrimination Law Association remains fully committed to advocate and support a complainant-centred approach to anti-discrimination law and practice.

The DLA was founded in 1995 for the purpose of advocating for better legal protection for complainants in discrimination law through engaging with the political and legislative process and improving education and increasing resources for those involved in practice.

From the start, strong emphasis has been placed on the important role of the voluntary sector and trade unions, and that remains the case today.

In 1998 a three-year grant was received from the Community Fund which enabled us to employ a part-time member of staff to assist us in our activities, and we have continued to do so ever since, even though we are now self-sufficient.

In 1999 we were incorporated as a company limited by guarantee.

In 2008 the Association was granted charitable status. Our charitable aims are to promote good community relations by improving the assistance and support given to people who are or may be subjected to discrimination and to advance education and training in the field of legal representation for people who are or may be subjected to discrimination.

The DLA acts as a forum of lawyers and advisers and others who deal with discrimination law in considering the impact of proposed changes to the law and submitting responses and in disseminating training and good practice. Looking beyond our membership, the DLA works to encourage the development of meaningful public discourse on defeating discrimination amongst legislators, policy makers and civil society generally.

Membership is open to any lawyer, legal or advice worker, trade unionist, equality officer or other person substantially engaged or interested in discrimination law and any organisation, firm, company or other body engaged or interested in discrimination law. The membership comprises, in the main, persons concerned with discrimination law from a complainant perspective.

## 2. Overview and Chair's Report

This report covers the period from December 2016 - December 2017.

I have had the pleasure again this year of working as chair with a committee of committed and intelligent lawyers and policy experts from a variety of backgrounds, with some really excellent results. The commitment of the Executive to regular meetings and unpaid hard work to ensure all the things we do happen and are first class is fantastic. As I review the year and look at all we achieve as a team, with the help and support of people from across the Discrimination Law world, I want to say a really big thank you to everyone who has worked with us and for us this year.

As chair I have been able to contribute to discussions and debates both at the Equality and Diversity Forum monthly meetings, and as part of the Panel of the Fawcett Review, as well as an invited speaker at various conferences and events. I have focussed my message this year to three key changes which we at DLA believe would have real impact for all claimants who suffer discrimination: first, remove all fees from the Employment Tribunals; second, review and reinstate an early legal advice scheme for employment and discrimination issues and third, implement the dual discrimination provisions of the Equality Act 2010. Whilst the first has been achieved for now, with a review of legal aid cuts due to take place this year and growing recognition of the need for legal protection of intersectional discrimination, these issues remain as crucial as ever.

I have been delighted this year to work with lawyers from both Manchester and Birmingham supporting the setting up of our first two regional DLA groups. Thanks are due to Helen Barney, Nazia Khan and David McBride for getting the two groups up and running. We look forward to more events and greater regional involvement in our work.

The political background has been far from easy for discrimination lawyers, and whilst the striking down of ET fees last summer has given a real lift to the mood the sheer amount and range of unlawful and unchallenged discrimination remains profoundly disturbing.

For many practitioners the knowledge that there is widespread discrimination is often difficult to prove partly because so many in society refuse to accept that it exists at all. This year we have been seeing the hard evidence of acts of discrimination, and of attitudes to and impacts of all types of discrimination in report after report.

As I write, yet again the EHRC is reporting on the appalling discriminatory attitudes of many employers towards women, on grounds of pregnancy; parenthood and childbirth. We have read, noted and often responded to report after report analysing issues ranging from the impact of austerity on BME women, to the discriminatory injustices against women in the prison system and the racial prejudice within the criminal justice system. We have heard from experts about the appalling levels of Islamophobia and the impact on Muslim women; and over and over again, the fact of sexual harassment and sexual assault on women in the workplace and in everyday life.

We have also witnessed first-hand the impact of cuts to funding across the board, from legal aid to the EHRC; from local authority budgets to those of projects to access to justice. We have reported and written about legal development and lack of improvement of opportunities for people with disabilities, from the exclusion from workplaces to denial of benefits necessary for basic human dignity.

With the help of our active members and the expertise of many friends and supporters we have delivered our core objectives, of PGMs; *Briefings* and eNews and an annual conference, but we have also contributed to discussions and debates across the spectrum of protected characteristics and types of discrimination. This coming year we will continue to raise awareness of issues, educate and inform practitioners on how to respond, and to write letters, give evidence and draft responses to consultations whilst we argue for change. We hope to focus on contributing to some of these policy debates and look forward to calling on the expertise of our many members and friends in responding to evidence and making recommendations for change.

In the past year we have continued to benefit from excellent speakers at both our PGMs and at our Conference, as well as first class writing from members and contributors in our *Briefings* magazine. We benefit from a regular update on law in eNews - always up to date always practical and insightful - and from news and updates on events from members. To everyone who contributed in any or all of these ways, thank you and please continue to support us in the coming year.

I am very much aware that the DLA works because of the efforts of many people in lots of ways, but there are some specific people to thank.

Chris Atkinson continues to keep the organisation running, and the administration and finances of the charity in order. He works behind the scenes with cheerfulness and serenity and is a voice of calm in a hectic world.

Geraldine Scullion continues to be a patient and thoughtful editor and the content and quality of Briefings is a credit to her.

Michael Reed continues to oversee our budget and provide a common sense approach to the finances and fundraising of the organisation.

Rosalee Dorfman has been a force of nature over the PGMs this year. Others have worked with her, but without her vision, enthusiasm and energy, many events would not have happened.

Michael Newman has continued to be a superb vice chair, supporting behind the scenes as well as leading on so many initiatives and events, including the conference; ET users group and Gender Pay Gap Reporting.

Last but no means least, Gay Moon, whose decision to stand down this year will leave a very large hole in the committee. She has been active and hard working for many years, in recent years taking significant responsibility for the annual conference. I know all our members and friends will all join me in thanking her for all her work over the years and wishing her well for the future.

### **3. Membership**

Membership of the DLA has held up well over this past year. As of 31<sup>st</sup> December 2017, DLA membership stood at 250 members, made up of:

- 101 solicitor/barristers
- 49 individuals - other (including academics, trainers, consultants, trade unionists)
- 33 student/unwaged
- 38 voluntary organisations/law centres
- 4 large solicitors firms
- 9 medium solicitors firms
- 7 small solicitors firms
- 9 national organisations (including equality bodies, trade unions)



Overall membership was marginally down as compared with the same time last year (259 members) and is still only just below the levels of previous years when we had just over 300 members. However, we have now rather more individual memberships and rather fewer organisations than in the past.

It is encouraging that there is still a steady flow of new membership applications but the challenge for this coming year will be to retain existing members and recruit new ones. We are especially concerned to retain our members who depend on grants from public authorities and/or legal aid whose survival is at risk due to government spending cuts and reform of legal aid; they make an extremely valuable contribution to the work of DLA as well as to members of the public who rely on them for accessible high-quality legal services.

## 4. Briefings and E-mail News

### Briefings

#### *Briefings*

The DLA's 2017 editions of its legal journal *Briefings* reflected not only the development of case law in equality and human rights but also the political issues of the day. The first edition in March began with a 'gaze into a crystal ball' in order to try to predict how Brexit might impact on discrimination law and workers' rights. Capturing the mood of many equality and discrimination rights practitioners, Rachel Crasnow QC asked 'How scared should we be?' and concluded that, as no guarantees have been given that our current workplace protections will not be weakened, practitioners must actively contribute to debates on new frameworks for protection as Brexit changes the legal landscape of the UK.

The July edition of *Briefings* addressed mental health in the workplace, another important and current issue. Stephen Heath, a lawyer with MIND, highlighted the shortcomings of existing legislation and argued for an anticipatory duty and mandatory positive action to protect vulnerable workers.

Among the important cases reported was Unison's victory at the Supreme Court in July 2017, which successfully challenged the imposition of fees to access the employment tribunals - an issue which

*Briefings* had highlighted over a number of months. The DLA exists to, among other things, promote and protect access to justice and many of our readers would have welcomed Lord Reed's analysis that access to justice is a fundamental part of the UK's constitution.

A number of important services and education cases were reported alongside the myriad cases in the field of employment discrimination. These included the successful challenge to a bus company's inadequate reasonable adjustment policy (*Paulley v FirstGroup plc*), a successful challenge to a bakery when it refused to supply a cake with a gay rights slogan (*Lee v Ashers Baking*), and a challenge by OFSTED to a mixed-sex school's segregation policy (*The interim Executive Board of X School v Her Majesty's Chief Inspector of Education, Children's Services and Skills*).

Illustrating the on-going struggle against the reduction of welfare support as a result of government's austerity policies, the case note briefings reported challenges to discriminatory impact of the 'bedroom tax' (*MA & Ors v SSWP*) and the benefits cap (*R(DA & Ors) v SSWP*). These are challenges which practitioners will no doubt continue to deal with in 2018.

*Briefings* is entirely dependent on the willingness of DLA members and supporters to write articles and case notes and we are very grateful to all our volunteer contributors. Our active members' database has provided a rich resource of contributions to the DLA's work and for the items published in *Briefings*. *Briefings* Editor Geraldine Scullion uses the list to invite active members to contribute to the forthcoming edition. If you would like to write for *Briefings* and be included on the database, please contact Chris Atkinson at [info@discriminationlaw.org.uk](mailto:info@discriminationlaw.org.uk).

As always, we would like to thank and acknowledge Geraldine Scullion's work and that of our designer Alison Beanland.

## **E-mail News & Information Circulation**

Over the last year, we have circulated 12 issues of the DLA's email News, containing updates on DLA institutional developments and responses to consultations, as well as relevant national and international reports, case updates, conferences, vacancies and discrimination law news, plus information circulated at the request of members.

As of 31<sup>st</sup> December 2017, we had 473 recipients on our electronic mailing list and therefore directly receiving our *eNews*.

## 5. Practitioner Group Meetings

The DLA has continued to run an exciting programme of meetings this year. We are grateful to all of our speakers who have given up their time and efforts to help us. We would also like to thank all our venues for hosting meetings (and providing refreshments).

Wednesday 25th January 2017	You're (Not) Hired" - Discrimination in Recruitment: Hot Topics and Litigation Strategy	Chris Milsom (Cloisters Chambers)
Wednesday 29th March 2017	The "gig economy" and discrimination: does the law provide sufficient protection?	Tom Linden QC (Matrix Chambers) and Annie Powell (Leigh Day)
Thursday 20th April 2017	Modern Slavery: where do we go from here?	Jim Rowbottom (7BR Chambers) and Jamila Duncan-Bosu (ATLEU)
Tuesday 20th June 2017	Indirect discrimination post <i>Essop</i> and <i>Naeem</i> back on track? Discussion of the recent landmark Supreme Court judgments	Nicola Braganza and Catrin Lewis (Garden Court Chambers)
Wednesday 19th July 2017	Religion in the Workplace	Schona Jolly QC and Dee Masters (Cloisters Chambers)
Wednesday 29th November 2017	Discrimination issues in housing law: recent cases	Liz Davies (Garden Court Chambers)
Tuesday 5th December 2017	Discrimination, Employment and the High Court	Chris Milsom (Cloisters Chambers)

## 6. Regional Representation

This last year has seen the successful launch of DLA regional groups in the West Midlands and Manchester with inaugural events being held in Birmingham and Manchester.

The DLA is very grateful for the sterling support shown by our Regional Representatives: David McBride (Birmingham) and Nazia Khan (Manchester).

Monday 3rd July 2017	Workshop: 'Handling disability discrimination complaints - how best to succeed'	Helen Barney (No5 Chambers)	West Midlands
Thursday 7th December 2017	Review of 2017 Discrimination Issues	Sonia Birdee and Ben McCormack (Garden Court North Chambers)	Manchester

## 7. Influencing Law and Policy

Influencing law and policy is at the heart of the DLA, and as the list of submissions below demonstrates, we have continued to play an active part in shaping the national debate around discrimination policy.

As well as formal consultation responses, we also engage with other NGOs, and join with other organisations in letters to the press on important topics that we feel touch on the DLA's principles.

We regularly attend the Employment Tribunal National Users Group, and our contributions reflect our members' concerns about access to justice, and any reforms to the tribunal process that may impact on those bringing discrimination claims. We also continue to work with the British Institute for Human Rights on matters of common interest and attend meetings with the Equality and Diversity Forum.

Select Committees are an increasingly important part of parliamentary democracy, and so we are pleased that we continue to be invited to give evidence, hopefully providing some material from a practitioners' perspective that can be used to hold ministers (of every persuasion) to account.

As ever, we will create similar opportunities in 2018 so that we can continue to influence law and policy effectively in line with our members' interests.

## **DLA Submissions**

The DLA made written submissions in relation to the following inquiries / consultations since the previous AGM. They can be downloaded from our website [www.discriminationlaw.org.uk](http://www.discriminationlaw.org.uk):

Reforming the Employment Tribunal System consultation	Ministry of Justice and Department for Business, Energy & Industrial Strategy	January 2017
Caste in Great Britain and Equality Law: A public consultation	Government Equalities Office	September 2017

Organisations that the DLA has liaised with in the past year include:

- Employment Tribunal User Group
- Equality and Diversity Forum
- Women and Equalities Committee

## **Appendix 1: Staffing**

Chris Atkinson became the DLA Administrator/Development Officer as a temporary appointment in October 2010 and his permanent position was confirmed in November 2010; he remains in post. This is a part-time post.

There are no other paid or unpaid staff.

## **Appendix 2: Support and Thanks**

During the year we have benefited from the support of the following solicitors' firms, who have hosted Executive Committee and/or Practitioner Group Meetings during the year:

- 7BR chambers
- Leigh Day
- Slater & Gordon (London & Manchester offices)
- Cloisters Chambers
- No5 Chambers (Birmingham)
- Garden Court Chambers
- Garden Court North Chambers

Additionally Leigh Day have generously printed full sets of documents for our annual conference and for this year's AGM.

Thank you to 7BR chambers for hosting our AGM in February 2017 and again this year.

A special vote of thanks is due to Allen & Overy for so generously hosting our annual conference, providing catering and valuable support services.

We are extremely grateful to them all.

## Appendix 3: Executive Committee

### Members

The following individuals have served on the Executive Committee during the period covered by this report:

<b>Catherine Rayner</b>	Chair
<b>Michael Reed</b>	Treasurer
<b>Mohini Bharania</b>	Director
<b>Naomi Cunningham</b>	Director
<b>Rosalee Dorfman-Mohajer</b>	Director
<b>Katya Hosking</b>	Director
<b>Nina Khuffash</b>	Director
<b>Peter Kumar</b>	Director
<b>Catrin Lewis</b>	Director
<b>Tamara Lewis</b>	Director
<b>Chris Milsom</b>	Director
<b>Gay Moon</b>	Director
<b>Michael Newman</b>	Director