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843	<b>Williams v Trustees of Swansea University Pension and Ors</b> CA dismisses W's appeal and upholds a conclusion that the payment of a pension enhancement based on part-time earnings - as a result of W reducing his hours for a disability related reason - cannot amount to 'unfavourable' treatment for the purposes of s15 EA.	Catherine Casserley	23
844	<b>Efobi v Royal Mail Group Ltd</b> EAT rejects the concept of a shifting burden of proof in discrimination cases following consideration of the wording of s136 EA.	Catherine Rayner	25
845	<b>Trayhorn v Secretary of State for Justice</b> Upholding ET's decision, EAT confirms that in an indirect discrimination claim under the EA engaging Article 9 ECHR, the requirement to prove group disadvantage remains. EAT confirms, however, the threshold in such a case is low - whether some individuals sharing the claimant's protected characteristic are disadvantaged by the PCP.	Jason Braier	27
846	<b>R (DA &amp; Ors) v Secretary of State for Work and Pensions and Shelter</b> The Administrative Court finds not only that the application of the revised benefits cap to those with children under the age of two is discriminatory and a breach of Article 8 rights, but that 'real misery is being caused to no good purpose.'		
847	<b>In the matter of an application by Joanna Toner for judicial review</b> The NI High Court considers the lawfulness of aspects of a public realm scheme in respect of access to a town centre for blind and partially sighted people, holding for the first time that the local authority breached its s75 public sector equality duty when it proceeded with a scheme in which the kerb height put disabled people at a disadvantage.	Catherine Casserley	30
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## Editorial: **Access to justice**

Racial inequality and access to justice are topical and powerful issues. The Lammy Review has highlighted the disproportionate representation of BAME prisoners in the criminal justice system, and the Women's Budget Group and Runnymede Trust report that, for BME women, gender inequalities intersect with and compound racial inequalities. The Bach Commission has identified a crisis in the justice system and the need to restore access to justice as a fundamental public entitlement.

It is not surprising then that these themes which run through the very heart of society are reflected in this edition of *Briefings*.

The Traveller Movement's research on discrimination experienced by Gypsies, Roma and Travellers sets out in the respondents' own words how they cope with a world which denigrates their culture and ethnicity. From their first experiences at school through to applying for a job or seeking health services, the impact of racism and prejudice, means that many go through life with a strong distrust of educational, police or other authorities which they could turn to for help. As hiding their ethnicity is the dominant mechanism to cope with this discrimination and hatred, unsurprisingly, although 91% of the respondents had experienced discrimination, the majority of them do not seek legal redress.

In her review of the *UNISON* judgment which determined that the imposition of tribunal fees was unlawful as they infringed the rights of workers by denying them access to justice, Catherine Rayner, the DLA Chair, focuses on the SC's consideration of access to justice as a fundamental part of the UK's constitution. The SC emphasised the need for people to have unimpeded access to the courts to ensure that laws are applied and enforced and government lawfully carries out its functions. The SC emphasised that access to the courts is of value to the wider public interest, as well as to the individual. The court added that in order for rights to be effective *'and to achieve the social benefits which Parliament intended, they must be enforceable in practice'*.

Before the stage of accessing the courts, there is a more basic need which must be addressed. Discrimination practitioners will be familiar with the Bach Commission's view that: *'The law is meaningless unless people are supported to have the knowledge to understand it and the power to enforce it. ... if you don't recognise when a dispute has a legal dimension then you can't resolve it through the justice system. Or if you recognise your problem has a legal remedy but don't have the means to access the justice system on a fair footing with your adversary, then the outcome that is reached is unlikely to be just. And if the expenses incurred by seeking justice are greater than the benefits from achieving it, then justice becomes irrelevant'*.

Improving people's access to legal remedies includes improving their legal knowledge and their awareness of where to go for information and support; it also includes building trust in the legal professions. In addition to calling for a new Right to Justice Act which would be monitored and enforced by a new, independent commission, the Bach Commission is calling for a *'national public legal education and advice strategy that improves the provision of information, education and advice in schools and in the community'*.

The DLA supports that call; it is active in supporting the improvement of public legal capacity and through its practitioner group meetings, it assists to improve the quality of assistance and support available to people who are, or who may be, facing discrimination. The EAT update, new in this edition, will be a regular feature aimed at assisting practitioners by summarising developments in practice and procedure and focusing on key points for practitioners.

However, ensuring that grass roots communities have knowledge of discrimination law and legal remedies is more complicated. Learning more about the barriers particular communities face and building relationships with them is a good start. As government is unlikely to take steps to support legal education among the public, we must redouble our efforts to make our services as accessible as possible.

**Geraldine Scullion**

Editor