



Discrimination Law Association

ANNUAL REPORT 2005-2006

**Presented to the
Annual General Meeting**

**Held at the offices of
Irwin Mitchell Solicitors
150 Holborn
London
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**On Wednesday 15th November 2006
At 6pm**

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1. History and Aims

The Discrimination Law Association was founded in 1995 with the objective of pushing forward the practice of complainant-oriented discrimination law and creating resources for those involved in practice. From the start strong emphasis was placed on the needs of the voluntary sector.

In 1998 a three-year grant was received from the Community Fund (formerly the National Lottery Charities Board). This enabled us to employ a part-time Development Officer.

Membership grew rapidly and in October 1999 the Association was incorporated as a company limited by guarantee.

We have been able to employ a part time employee to assist us in our activities since.

Aims

Whilst the organisation is membership based, the DLA exists primarily to benefit a particular group of individuals – actual and potential claimants in discrimination litigation.

To do this, the organisation has stated aims and objectives which include, for example, promoting best practice in advice and support for claimants in all types of discrimination cases; and facilitating discussion nationally and internationally about existing and proposed legislation and ensuring that the claimants view point is taken into account.

The DLA Executive Committee has revisited the issue of whether DLA should progress towards obtaining charitable status. The Committee was broadly in favour of this move on the basis that it would both enhance the status of the organisation, and the opportunities for fundraising that will ultimately assist in the carrying out of organisational objectives.

In the event that more funding does become available, by grant applications or otherwise, it is envisaged that those funds would be applied to additional staffing and support, probably on an area such as assisting with the Briefings or on particular research projects.

It was therefore decided to put forwards an appropriate proposal for consideration of the membership at general meeting.

2. Overview and Chair's Report

This report relates to the period December 2005 to November 2006.

In my last report as Chair I spoke of the pivotal role of the DLA in the battle to secure effective equality protection. We anticipated the challenges and opportunities which would be presented by developments in the two Reviews undertaken by the Government – the Equalities (ER) and Discrimination Law Reviews (DLR). Our national conference, directed creating a forum in which the way ahead for discrimination law would be mapped, was a success. As our Vice-Chair, Barbara Cohen states in section 6 of this report, the conference provoked serious consideration of a paradigm shift in equality law which we then argued for in our submissions to the Discrimination Law Review. We have continued to press for the legislative changes we advocated via contact with the All-Party Parliamentary Equality Group and with the ministers with responsibility for this important project.

We have also continued to campaign for focussed and nuanced roles for the Committees in the newly established CEHR and are keen to keep the prospect of a comprehensive single equality Act on the table despite the incremental gains made in the Equality Act 2006. There are radical changes to Legal Services Commission funding in civil cases afoot which may decimate what is left of publicly funded representation in discrimination cases. Moreover, in addition to our work on legislative change, there are existing policy initiatives and newly enacted provisions (the gender and disability duties and the new Age Regulations for example) the progress of which we intend to follow and monitor. It has been a challenging 12 months for the DLA and it is instructive that we continue to rise to the challenge of the next 12 when most of our work is likely to have its greatest impact.

As we look ahead, I hope that as an organisation we will continue to provide criticism of non-compliant legislative proposals and critical support for such proposals as accord with our aims. One of the issues which has troubled the Executive Committee in the last few months has been the absence of a rigorous discrimination analysis of the government's anti-terror policy by public bodies such as the CRE. In addition, we are conscious that much of the equality law debate has tended to focus on employment-based discrimination. We hope to keep expanding our horizons by contributing, for example, to proposals to address the widespread discrimination in healthcare provision suffered by those with physical disability, BEM individuals and those with mental health problems. The extension of anti-discrimination protection to all public functions on grounds of disability, gender, religion or belief and sexual orientation opens the criminal justice system as a possible area for DLA scrutiny and discussion.

We have these matters clearly in mind as matters which we hope to foster discussion and debate upon via sponsored lectures, seminars and/or discussion groups in the new year. We attempt to make sure that we encourage full membership participation in these debates. By way of example we invited members to contribute, by responding to questionnaires, to the review of the relatively new statutory dispute resolution procedures. We hope in the future to attract more members to become involved in the mainstay of the work we do.

As an organisation whose task is as described above, it is my experience that the Executive Committee has done a great deal primarily because of the good will and dedication of its members and the incredible support provided by our administrator. My indebtedness to the Executive Committee and to Melanie Crofts (our administrator) is greater still than it was last year. Without the reliance I have been able to place on our the astonishingly energetic Vice-Chair, Barbara Cohen, I would not have been able to give the organisation much of value. As ever, Gay Moon has superbly edited our journal "Briefings" and PGMs have been brilliantly organised by Juliette Nash and Michael Reed. Sophie Garner has given us the benefit of her expertise on our proposed charity application and, thanks to our Treasurer Elaine Banton, we have sufficient funds to undertake the crucial work we wish to in the year to come. I started off in this paragraph attempting to highlight all of the contributions made by each Executive Committee member. Fortunately, contributions have been so extensive, both to academic and practitioner issues, that it would be impossible to list them all here. It has been a privilege to be chair of this organisation and of this Executive Committee. Many thanks to you all.

A special thanks to all of those organisations and/or institutions which have allowed us to descend upon their premises, free of charge, for meetings and thank you also to those Executive Committee members who have helped to arrange those meetings.

Finally, thank you to our members for continuing to support the DLA. We look forward to seeing you at the wide range of events we have planned for the new year.

3. Membership

The DLA has two categories of membership, associate membership for organisations, and individual membership. On 7th November 2006 DLA membership stood at 369, of whom 148 (40%) were associate members and 212 (57%) were individual members and 8 were complimentary members (2%). During the period November 2005 and November 2006 approximately 36 new members were recruited. In other words, 10% of our membership during this period has been recruited during the year.

4. Briefings and E-mail News

Briefings

The DLA Briefings come out three times a year in February, June and October. They aim to cover most of the major cases of relevance to discrimination practitioners with more detailed articles on areas of particular interest or new developments. The editorials seek to pick up on current issues in a thought provoking way, because of the time scale within which they are produced they do not represent DLA policy on any particular issue but they do seek to reflect the concerns of those affected by discrimination. The Briefings also carry news items and book reviews. It is wholly dependent on the contributions of members and we are very grateful for these.

Three issues of briefings (Volumes 27-29) have been issued since the last Annual Report in December 2005, containing a total of 42 Briefings. The increasing number of discrimination cases being reported means that we now have to be more selective about the cases that we report, focussing more on those in the higher Courts. This trend seems likely to continue.

During the last year we have featured Justice Albie Sachs' speech to the DLA conference and had articles on a new vision for equality law, the statutory dispute resolution procedures, the forthcoming provisions on religion or belief for education and access to goods facilities and services, the new Age Regulations, the proposal to extend protection from age discrimination to access to goods, facilities and services, the relationship between sickness leave and disability and the future for legal aid for discrimination cases. We continue to see the impact of the new employment tribunal procedures and we are asking members to complete our questionnaire about the effect of these so that the DLA can make representations to Government about their impact.

The next year looks likely to be full of new issues for the Discrimination Law Association. It will encompass the institution of a new Commission for Equality and Human Rights to replace the current EOC, CRE and DRC which is due to open its doors in October 2007. The Equality Act 2006 provisions extending protection on religion and belief are due to be implemented in April 2007 at the same time as new regulations to provide similar protection on grounds of sexual orientation. As the new Age Regulations are now in force we will be watching the way that case law in this area develops. The outcomes of the Equality Review and the Discrimination Law Review are expected in February 2007.

We do get a small amount of revenue from advertising in the Briefings and we would welcome more. The Briefings are edited by Gay Moon and typeset by Alison Beanland.

E-mail News

The E-mail News service continues to improve with relevant national and international news and case up dates.

This e-mail service continues to be valued greatly by members. It also helps us to keep in touch with our membership and respond quickly to their needs.

E-mail News welcomes information which members provide about current cases, research, projects, conferences etc.

5. Practitioner Group Meetings

The DLA has continued to run an exciting programme of Practitioner Group Meetings. We hold meetings every one or two months. The wide range of work and knowledge of our members is reflected in the breadth of topics dealt with.

Some sessions have grappled with long term problems discrimination - such as Catherine Rayner's session on 'The Mummy Trap: Discrimination on the basis of Motherhood'. Others have covered important topical areas, such as the talk on the new definition of disability guidance presented by Catherine Casserley.

As well as member training (and those all important CPD points) PGMs play a vital role in allowing the membership to feed their views into the DLAs consultation work. Perhaps the most important PGM this year was the discussion session dealing with the governments expected consultation on the Dispute Resolution Regulations.

The following meetings were held between December 2005 and November 2006:

- 11/01/06 – Discrimination in the World of the “Flexible” Workplace
- 24/05/06 – The New Guidance on the Definition of Disability
- 21/06/06 and 26/07/06 – Here there be Dragons: Tax and Discrimination Litigation
- 13/09/06 – Discrimination in the Provision of Goods, Facilities and Services
- 18/10/06 – DLA response to the Statutory Dispute Resolution Procedures

The DLA would like to thank all the speakers who have donated their time, knowledge and experience, as well as all the members who have attended and contributed. We are also extremely grateful to the Disability Rights Commission for hosting those meetings and providing so much support including video links to their Edinburgh and Manchester offices.

6. Influencing Law and Policy

The period covered by this report has been a stimulating, busy and challenging period for the DLA and our involvement in current and future discrimination law and policy.

We began very positively. On 11 December 2005 our national conference "*Re-imagining Equality: A vision for the future*" involved leading lawyers and others raising critical issues that we saw as fundamental to the government's review of equalities and discrimination law. Our keynote speaker, Judge Albie Sachs of the South African Constitutional Court, opened the conference by asking if participants were "ready to be inspired". And inspired, indeed, we were not only by his wisdom but also by the centrality of rights to equality in the South African constitution and its interpretation by his court. Other speakers reinforced the need for a bolder approach to equality in the UK, moving away from formal equality to obligations to secure substantive equality. Speakers consider both wide conceptual issues and small scale provisions (or lack of provision) in legislation, drawing on the experience in Canada and South African and on initiatives in Britain that had begun to make a difference. Concepts that need to be addressed in new legislation, such as intersectional discrimination, dignity, meaningful positive action and effective remedies and sanctions were discussed.

The DLA incorporated many of the issues raised at the conference in our initial submission to the government's discrimination law review, which has, and continues to be, a main focus of our work. At the same time, we have sought to influence proposals for new legislation relevant to equality and discrimination and to monitor the impact of recent changes to the law affecting the enforcement of existing legislation.

DLA Submissions

Our last Annual Report included details of written submissions to the end November 2005. During the period 1 December 2005 to 30 October 2006, the DLA has made written submissions in response to the following consultations and proposals for new or revised legislation and policies;

- Submission to the Discrimination Law Review
- Legal aid: A sustainable future – Carter proposals for reform of legal aid

- Disability Rights Commission Consultation on the Definition of Disability
- Advancing Equality for Men and Women: Government's Proposals for a Gender Duty
- Disability Discrimination Act Guidance Document: Guidance on matters to be taken into account in determining questions relating to the definition of disability
- Equality and Diversity – Coming of Age Employment Equality (Age) Regulations 2006
- DRC Questionnaire - Consultation on a New Code of Practice (The Duty to Promote Disability Equality)
- CRE Draft Code of Practice on Housing
- Equality And Diversity: Updating The Sex Discrimination Act 1975 – Draft Employment Equality (Sex Discrimination) Regulations 2005
- Equality Bill House of Lords 2nd Reading Briefing

Legislation in Parliament

This period saw the final parliamentary stages of the **Equality Bill**, which received Royal Assent in February 2006. The DLA continued to raise issues of concern, in relation to the structure, role and functions of the Commission for Equality and Human Rights and in new protection against discrimination outside the field of employment on grounds of religion or belief and sexual orientation.

The final stage of transposition of the EC Framework Employment Directive was the introduction of legislation prohibiting discrimination in employment and related fields on grounds of age. The DLA submitted a detailed response to the draft **Employment Equality (Age) Regulations 2006** challenging in particular the decision to impose a default retirement age and to provide statutory justification for direct age discrimination.

During this period the DLA has become increasingly aware of the serious impact the statutory dispute resolution procedures are having on discrimination cases. In anticipation of the government's recently announced consultation on the workings of the statutory dispute resolution procedures we have undertaken a major survey of DLA members regarding their experiences in relation to these procedures when acting for discrimination claimants. The responses to our survey will enable the DLA to ensure that our input to the government fully reflects the concerns of our members.

A continuing concern of the DLA is that victims of discrimination should have access to justice, including access to skilled advice and representation. We have raised this issue in relation to the proposed functions of the CEHR, but also in relation to proposed changes to legal aid. While the government reconsiders how it proposes to reform civil legal aid, the DLA is continuing to make representations in order to get fuller recognition of particular features of discrimination cases and the pressing need for adequate public funding for such cases.

The DLA continues to be consulted formally and informally and invited to engage in relevant policy debates. During this period in addition to detailed written submissions this has included meetings with senior officials and with the equality commissions, speaking at conferences, interviews and articles in the media, collaborating with other organisations; in each case our objective has been to secure better, more effective ways to use the law to tackle unfair discrimination and to promote equality.

We have been represented on the Equality and Diversity Forum by Tufyal Choudhury. We are part of the Access to Justice campaign. As a member of UK Race & Europe Network (UKREN) we have been able to contribute to race equality matters in the UK and in Europe through the European Network Against Racism (ENAR).

7. Organisational Development and Funding

Financially the period 2005/2006 has continued the progress made over the last few years and has seen the DLA maintain the previous years' work. Membership as usual remains the main source of income for the DLA and efforts continue to increase the DLA membership. Enquiries in relation to attaining charitable status, which will hopefully open additional avenues of funding for the organisation, continue.

Positively, the DLA has invested in its 6th National conference held on 12 December 2005. This meant that a deficit of £4,706 occurred this year. Nonetheless, we believe it remains important to invest in important ventures such as a national conference for the DLA. Every effort is being made to continue to further reduce expenditure in our running costs.

Income for this year stands at £42,630 increased from £29,700 last year. Membership remained a steady £26,517 slightly up from last years £26,143 with a further £12,897 received this year in conference fees. We have also slightly increased income generated from advertising. Expenditure this year was likewise increased to £47,336 from last years £23,044. This increase is explained by an additional £22,308 being spent on the conference this financial year.

However the overall financial position remains strong. Our current monies in the bank are approximately £1,686.10. An additional £20,407.30 is held in the savings account.

Summary

We continue to grow financially. We will strive to improve both our membership and funding base and reduce expenditure where possible.

Elaine Banton, Treasurer.

Appendix 1: Staffing

Melanie Crofts became Administrator/Development Officer on May 14th 2003 and is working 17.5 hours per week.

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 and organisations, who have allowed us the use of their rooms for meetings:

- ◆ Disability Rights Commission
- ◆ Webster Dixon Solicitors

Thank you to Irwin Mitchell Solicitors for hosting the AGM in December 2005 and printing the annual report.

Thank you to Tooks Chambers for printing the ballot papers and nomination lists for the last AGM.

We would also like to thank our guest speaker, Angela Mason, for agreeing to come and speak to us.

We are extremely grateful to them all.

Appendix 3: Executive Committee

Membership

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

Elaine Banton	Elected December 2005	Treasurer
Ulele Burnham	Elected December 2005	Chair
Catherine Casserley	Elected December 2005	Director
Tufyal Choudhury	Elected December 2005	Director
Barbara Cohen	Elected December 2005	Director
Sophie Garner	Elected December 2005	Director
Tamara Lewis	Elected December 2005	Director
Clive Mardner	Elected December 2005 Resigned July 2006	Director
Aileen McColgan	Elected December 2005	Director
Gay Moon	Elected December 2005	Director
Juliette Nash	Elected December 2005	Director
Shah Qureshi	Elected December 2005	Director
Catherine Rayner	Elected December 2005 Resigned July 2006	Director
Michael Reed	Elected December 2005	Director

Attendance at meetings

Nine meetings of the Executive Committee were held between December 2005 and November 2006. Attendance figures are shown below.

Name	Possible	Apologies	Attended
Elaine Banton	9	4	5
Ulele Burnham	9	2	7
Catherine Casserley	9	4	5
Tufyal Choudhury	9	1	7
Barbara Cohen	9	0	9
Sophie Garner	9	4	5
Tamara Lewis	9	3	6
Clive Mardner	7	1	0
Aileen McColgan	9	6	0
Gay Moon	9	3	6
Juliette Nash	9	2	7
Shah Qureshi	9	2	7
Catherine Rayner	7	5	0
Michael Reed	9	1	8