

Thurrock Coalition



Submission of evidence to the House of Lords Select Committee on the Equality Act and Disability

1st September 2015

About Thurrock Coalition

1. Thurrock Coalition is the User-Led Organisation for Thurrock. We are a company that has been set up to ensure that people who live in Thurrock have access to all the information they may require to get the support and care that they need.
2. Thurrock Coalition is an 'umbrella' company that consists of 4 organisations, all of which follow the Social Model of Disability and aim to improve the lives of disabled and older people living in Thurrock by seeking to remove environmental, attitudinal and physical barriers that exist in society. We connect to over 1500 individuals and organisations with an interest in disability issues. Thus, we have a direct interest in the work of the House of Lords Select Committee and welcome the opportunity to provide input and evidence of individual lived experiences in the context of the Equality Act 2010.

Summary

3. A meeting of our Consultation and Campaigning Partner Organisation – Thurrock Diversity Network, a registered Community Benefit Society, was called, and our members consulted and views were gathered around the key themes relating to how well the Equality Act 2010 is working for Disabled people. The feedback appears below.
4. Overall, it was felt that things have not improved for Disabled people now that Disability is only one of nine groups protected under the Equality Act 2010. Furthermore, people felt that the protection has been watered down and that the previous laws, for example, the Disability Discrimination Act 1995 (as amended) was more specific and targeted.
5. The lived experience of our members has seen no real change on the ground, for a variety of reasons, relating to a range of different stakeholders and providers. These are dealt with in turn.

Gaps in the Law on treating Disabled People Equally

6. In terms of gaps in the law on treating Disabled people equally, members of Thurrock Diversity Network made the following observations:

Access to Justice and Legal Aid

7. Changes to Legal Aid and access to Legal Advice has been greatly reduced, meaning that the ability of Disabled people to become aware of and to be empowered to exercise their rights under the law relating to discrimination has been made into an additional challenge and barrier to achieving justice.

Access to and Provision of Healthcare for Disabled People

8. Our members felt that although legislation stipulates that there should be Equality for Disabled people – lived experience shows that this is being denied to Disabled people in terms of access to and provision of Healthcare. Locally there is an alarming problem around access to Healthcare and health checks which is disproportionately affecting Disabled people, their families and carers.
9. The Healthcare sector needs a more robust Duty placed upon providers to ensure Equality. The focus upon the Medical condition, fails to see the individual through an holistic person-centred approach, and instead sees just a label or impairment.

Formal Equality & Substantive Equality

10. The Equality Act could be strengthened if Public Authorities, providers of goods, services, education, transport and the like, recognised the limitations of formal equality¹ and understood the value of Substantive Equality and Equality of Outcomes, particularly in relation Reasonable Adjustments, Positive Action² and Disabled People. For example, the feedback we received from Thurrock Diversity Network members highlighted the view that some elements regarding physical access to the built environment, such as ramps and handrails, have become increasingly commonplace adjustments,

¹ The idea of formal equality can be traced back to Aristotle and his dictum that equality meant “things that are alike should be treated alike”. This is the most widespread understanding of Equality today. Formal equality promotes individual justice as the basis for a moral claim to virtue and is reliant upon the proposition that fairness (the moral virtue) requires consistent or equal treatment. See:

<http://www.equalrightstrust.org/ertdocumentbank/The%20Ideas%20of%20Equality%20and%20Non-discrimination,%20Formal%20and%20Substantive%20Equality.pdf>

² Positive action means offering targeted assistance to people, so that they can take full and equal advantage of particular opportunities. Positive discrimination means explicitly treating people more favourably on the grounds of [a Protected Characteristic]. See, Department for Communities and Local Government, “Discrimination Law Review, A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain, a consultation paper”, 2007, p.61.

whereas procedures and understanding of policies and schemes such as Access to Work, as well as staff training, awareness and attitudes are either still under-developed or have not moved on at all following the coming into force of the Equality Act 2010.

Education Provision

11. In relation to Education providers – barriers to equality of access remain - getting assessments of learning needs/support is still a barrier because of funding difficulties (often because education do not want to pay).

Transport Provision

12. Cuts to Local Authority funding for Specialist transport has reduced locally resulting in increased social isolation, loneliness and adverse effects upon the workforce and the local economy, transport usage and pollution, as well as access to healthcare and local amenities.

Access to Goods, Services, Facilities, Clubs & Associations

13. Access at sports grounds is still poor, especially given the value and enormous spending power of the English Premier League.

Attitudes towards Disabled People

14. From a broader Human Rights perspective, we have seen that attitudes towards Disability and Disabled people in general are hardening, which has adversely impacted upon Disabled peoples 'civil, political, economic, social and cultural rights. Incidents of Disability Hate Crime have increased 14% between 2010 and 2012³, along with hardening political ideologies towards Disabled People, rhetoric about the "deserving poor" coupled with the Welfare Reform agenda. We have seen the need for increased Hate Crime Awareness training to counteract increases in Disability Hate Crime. .

The Duty to Make Reasonable Adjustments

15. The practical weaknesses of the Duty to Make Reasonable Adjustments are twofold:
 - i) Lack of awareness of the scope and applicability of the Duty on the part of Disabled people, how to enforce it and remedies available.
 - ii) Misunderstanding and misconception including a lack of awareness of the scope and applicability of the Duty on the part of providers and Public Authorities.

³ The Independent - Hate crimes against disabled people soar to a record level:
<http://www.independent.co.uk/news/uk/crime/hate-crimes-against-disabled-people-soar-to-a-record-level-7858841.html>

16. Illustratively, Disabled people have lived experience of local transport and bus service providers not making Reasonable Adjustments, particularly facing attitudinal barriers from drivers and staff around provision of ramped access, allowing sufficient time for individuals with mobility difficulties to locate a seat safely as well as and priority seating on board. In addition, fully wheelchair accessible taxis are few and far between and when they are available, disabled people face an added costs penalty and are often charged a higher sum than their non-disabled colleagues for identical journeys.
17. In terms of requests for Accessible documents, including EasyRead, even when such documents are provided, the process is often carried out with no consultation, or meaningful thought and therefore it does not make sense.
18. For people with visual impairments – information should be readily available in Audio format as default. Such provision would be useful for people with learning difficulties, people who are unable to read and/or write and many others.

Improving the strength and effectiveness of the Duty to Make Reasonable Adjustments

19. The law should be made clearer and stronger in this regard. The enforceability of the Duty to Make Reasonable Adjustments must be strengthened; too many stakeholders to whom the Act applies view the Duty as an “optional extra”. Penalties should be put in place where a failure has occurred, without the need to resort to litigious action. We suggest a compulsory Reasonable Adjustments Protocol be drafted and a new Enforceability mechanism be given to the Equality & Human Rights Commission or a specific Ombudsman should be created.

Public Bodies, Equality & Fairness

20. Public Bodies have largely not done all that could be done to ensure equality & fairness, often using resources as a “catch all” excuse and continuing abrogation, obfuscation and denial of responsibility under the Equality Act 2010.

The Public Sector Equality Duty

21. There appears to be a lack of transparency in relation to Public Authority documentation and official reports. All too often reports to various Overview & Scrutiny Committees state that “Equality & Diversity Implications” have been “verified” and/or that a specific approach will be “fully compliant” with the Equality Act, with no further explanation or detail as to how or when this is or has been achieved, particularly in terms of Equality Impact Assessments and the appropriate discharge of the Public Sector Equality Duty.

Effective Partnership Working

22. It is not clear whether those government departments dealing with Equality work effectively together. Operational and Strategic Approaches should be User-Led and sufficiently resourced to increase effectiveness and to ensure sustainability.
23. In terms of Public Bodies (Local and National) including the Judicial system and Police – officials are too often not capable, adequately trained or structured to be able to deal with compound/multiple Characteristics, for example, offering appropriate support for Disabled women & girls who have been the victims of sexual violence. A further example of the need for support for people with multiple Characteristics is highlighted by the fact that parents with learning difficulties are far more likely than other parents to have their children removed from them and permanently placed outside the family home.⁴
24. The 9 Protected Characteristics within the Equality Act 2010 often “compete” with one another, with some Characteristics dominating the social, cultural and media agendas. Awareness of multiple Characteristics and the need to protect Vulnerable people in a person-centred and holistic manner should be increased under the Equality Act 2010.

The Equality & Human Rights Commission

25. The general powers of the Equality & Human Rights Commission⁵ should be widened, to go further, so that it is permitted to bring proceedings against employers in its own name on any issue, and not just those issues pertaining to Human Rights under the Human Rights Act 1998.
26. Resources to publicise and to raise the profile of the Equality and Human Rights Commission’s Equality Advisory Support Service (EASS) would be beneficial so that Disabled people become aware of it and utilise its services whenever they require specialist expert information, advice and support on discrimination and human rights issues and the applicable law. The provision of such specialist advice is even more important when it cannot be provided by general advice agencies and local organisations, who are themselves likely to be facing funding difficulties.
27. The role of the EASS should be broadened to include provision of legal advice, representation in any legal proceedings, and advice on court or tribunal procedures once a claim has been issued. It should be permitted to

⁴See What happens when people with learning disabilities need advice about the law? University of Bristol, July 2013, p.12

<http://www.legalservicesconsumerpanel.org.uk/ourwork/vulnerableconsumers/Legal%20Advice%20Learning%20Disabilities%20Final%20Report.pdf> and Risk & Resilience Work - Review of research literature on the cost of families with issues, p.6. Available At:

<http://www.essexinsight.org.uk/mainmenu.aspx?cookieCheck=true&JScript=1>

⁵ See: <http://www.equalityhumanrights.com/about-us/about-the-commission/our-vision-and-mission/our-strategic-plan/our-duties-and-powers>

advise on the strength of a case or the evidence needed to prove a case, provide advice to employers, solicitors and other professional advisors

Use of Other Organisations to ensure that Disabled people are treated equally

28. The Care Quality Commission and the Local Government Association could both be utilised in ensuring that Disabled people are treated Equally through the existing checks, powers of enter and view, Peer Reviews and similar mechanisms, this is particularly important in relation to the Public Sector Equality Duty so that it is fulfilled and seen to be being fulfilled.

Use of Courts & Tribunals

29. If the role of the EHRC and EASS are broadened, strengthened and the services publicised more widely then the numbers of people who are empowered and aware of how to exercise and enforce their rights through the appropriate avenues, courts and Tribunals will in turn increase.

Conclusion

30. It is evident that the aim of the Equality Act 2010 was to “simplify legislation and harmonise protection for all of the characteristics covered in order to help Britain become a fairer society, improve public services, and help business perform well.”⁶ However, the practical application, and lived experiences of the gaps in the enforcement of the Rights of Disabled people and Duties of Public Bodies highlight the areas that would benefit from improvement. to ensure that Disabled people are treated Equally throughout daily life.

31. The opportunity to contribute to the Call for Evidence from the Committee is welcome. We look forward to the reading the recommendations and conclusions of the Committee in due course.

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⁶ EHRC - What is The Purpose of the New Act? See: <http://www.equalityhumanrights.com/private-and-public-sector-guidance/guidance-all/faqs>