



CIVIL RIGHTS FOR DISABLED PEOPLE

A TUC Statement

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Introduction: Malcolm's Story

Malcolm is a TGWU member from Castle Bromwich, near Birmingham.

For years Malcolm worked as a press operator for Leyland Daf. Press operators work on power presses which turn sheets of metal into the components which make up cars. It can be an exhausting job: some of the components which go to make up a car are very heavy. At other times the work requires dexterity and a calm head. Although he had lost three fingers in an accident, his years of experience enabled him to make up for any disadvantage this caused. For Leyland Daf, Malcolm was a valued and productive employee.

Then Malcolm was made redundant. In recent years thousands of car workers in the Midlands have known what this tragedy is like. But Malcolm was luckier than many, last year he applied to work as a power press operator at a company making car components, and was invited to an interview for the job. The personnel officer knew that Malcolm's experience of doing the same work in the same industry was invaluable. Everything was going fine, until it struck Malcolm that no-one had mentioned his injury.

"By the way, I've got three fingers missing on my left hand. It's never stopped me doing my job, but I thought you'd want to know" he told him.

Suddenly, everything changed. It didn't matter that Malcolm's record showed he was more than capable of doing the jobs. "After that they just didn't want to know."

Malcolm was upset, of course. More than that, he was angry. He was even angrier when he found out that the personnel officer had broken no law.

"He wouldn't have been able to do that if he'd refused me the job because of my race or because of my sex. If I was black or a woman I'd have some protection against discrimination. It would have been against the law. But there's nothing to stop discrimination against disabled people."

That is why he contacted the TUC: "Trade unionists shouldn't accept behaviour like this," he said.

He is right. Trade unions, we told him, do not accept that anyone should be treated like that. All discrimination against disabled people is wrong, we said.

Then Malcolm made a point that hit home, and shows that discrimination against disabled people is important to everyone, whether they are disabled or not:

"I didn't even know I was disabled until I was discriminated against. If it can happen to me it can happen to anyone."

Why Should Trade Unionists Oppose Discrimination Against Disabled People?

In Britain, employers can discriminate blatantly against disabled people. Local authorities regularly break laws setting minimum standards of service to disabled people. Many disabled people live in institutions where every decision is made by people over whom they have no control. The media constantly reproduce language and images which bolster prejudice against disabled people.

Trade unionists know the importance of solidarity. We know that a lonely stand for justice may be heroic, but that co-operation is the road achieving that justice. That is why trade unions and their members have supported campaigns for liberty and progress.

It has not been easy, often we have had to overcome our own prejudices and ignorance, but it has been worth it. We are proud now that, in their time, trade unionists campaigned against slavery, for votes for women, for freedom in the colonies. We are proud that our Movement supported the Sex Discrimination Act and the Race Relations Act in the 1970s.

Today, unions and their members have a duty of solidarity with disabled people in their campaign against discrimination.

One of the most important ways this happens is through discrimination. In this statement we show why the TUC believes that this discrimination should be made illegal, by laws as strong as the laws which ban discrimination on the grounds of someone's race or sex.¹

Sometimes discrimination is direct: when an individual or organisation denies equal treatment to disabled people because they are disabled.

Sometimes it is indirect: when there wasn't any intention to discriminate, but that is the effect, just the same. Buildings which can't be used by people who use wheelchairs, lifts which can't be operated by blind people, meetings arranged so that disabled people can't take part are all good examples of this indirect discrimination.

Both types of discrimination shape the world in which disabled people live. At the start of this statement, Malcolm's story illustrated what it is like to face direct discrimination.

DISABLED PEOPLE

There are more disabled people in this country than you may imagine. Disabled people aren't just wheelchair users and blind or deaf people. According to the Government Office of Population, Consensus and Surveys, there are 6.5 million people with physical, mental or sensory impairments in Britain.

But it is not the impairment which makes someone disabled.

Profoundly deaf children, for instance, are no less intelligent than any other children, but their average reading age when they leave school is just 8 years. That is the result of the way deaf children are educated, not their deafness.

Disability is about the way people with impairments are turned into second class citizens.

Anne Begg, a disabled teacher, and an active member of the Educational Institute of Scotland, explains why indirect discrimination against disabled people is important:

"Imagine a world where there is a barrier across the doors of most shops on the High Street which reads 'Sorry, no women beyond this point'.

Or a world where every time you go out, be it to the pub, a restaurant, shopping or wherever, you then find that there are no toilets for you, or that the ones that have been constructed for you are full of furniture.

Or a world where the only way you can travel on some British Rail trains is in the guards van, while you're not allowed on most buses or the London Underground at all simply because you happen to be black.

Or where hotels say, 'Sorry, because you are a man we have no special facilities for you, so you can't come here with your wife and family.'

Or where a cinema which has just allowed a drunk man to enter with a fag hanging out of his mouth, turns round and says 'You can't come in here because you've got bright red hair and you're a fire hazard.'

Or where, at the polling station, the place where you exercise your rights as a free citizen, you denied entry because you are a woman, or can only vote in person if someone else carries you in to the polling station.

If such social apartheid occurred to you just because you were male or female or black, there would, quite rightly, be a public outcry. The gross unfairness of such treatment is so clear. Yet all of the above, and much more, has happened to me at some time in my life.

And my crime?

I use a wheelchair to get around.

In the world I have described, just substitute 'disabled person', and you have an accurate snapshot of some - and only some - of the barriers we face."

Some Facts about Discrimination ²

When Liberty (formerly the National Council for Civil Liberties) investigated disabled people's civil rights, they found some shocking examples of discrimination against disabled people³, none of which were against the law:

- i. In 1988 a worker in the advertising department at the Daily Telegraph was sacked because he had a mild form of controlled epilepsy - which would **not** have interfered with his job.
- ii. A holiday camp refused a week's booking from a group with cerebral palsy.
- iii. A coach company refused to carry a person in a wheelchair.
- iv. A landlord banned a disabled skittles team from his pub, because he believed they were "mentally handicapped".
- v. An oil company refused to employ HIV positive people.
- vi. A blind doctor was invited to Buckingham Palace to receive an award from the Queen - but wasn't allowed to take her guide dog.
- vii. A qualified blind tele-sales person was denied a job because the employer thought that she wouldn't be able to climb the stairs to the office.

When stories like these are told, some people argue that these are just regrettable *individual* cases, which don't justify laws to ban discrimination against disabled people. The statistics tell a different story.

Discrimination in Employment:

- i. Disabled adults are two and half times as likely to be unemployed as adults who are not disabled.⁴
- ii. 12% of disabled workers have professional or managerial jobs, compared with 21% of non-disabled workers. 31% of disabled workers have low skill manual jobs, compared with 21% of non-disabled workers.⁵
- iii. The average income of disabled people under retirement age is just 72% of the average people generally.⁶
- iv. A study of disabled men found 48% were in the 2 lowest income groups, compared with 33% for non-disabled men. 20% reported discrimination by employers.⁷
- v. In a larger study, one disabled person in ten reported discrimination by employers.⁸

- vi. A survey of physiotherapists found 20% thought people with controlled epilepsy should not be allowed to enter the profession, 22% would ban people who had depression, and 17% people with facial deformities.⁹
- vii. In 1990 the Spastics Society repeated a 1986 experiment: they invented two applicants for jobs as a secretary. The two had the same qualifications and experience, but one had cerebral palsy. The result was the same: 40% of the employers offered an interview to the non-disabled applicant, but not to the disabled, compared with just 6% who offered an interview to the disabled applicant, but not the non-disabled.¹⁰
- viii. A Department of Employment report found that employers drafted their job requirements in ways which unnecessarily excluded disabled people. 65% thought the ability to climb stairs was "vital" for work in management, and 53% for non-professional office work; 72% thought good eyesight was "vital" for managerial work, 73% for non-professional office work, and 81% for work in personal services. 31% even believed that the ability to walk fairly long distances was "vital" for a career as a degree level business professional.¹¹
- ix. Another DE study found that half the employers responding to the survey employed no disabled people, and that these employers often had stereotypical ideas about disabled people. 43% believed that it would cost more to employ disabled people. 7% thought that their customers would not like to deal with a disabled employee and 10% were worried about sickness levels, even though there is no evidence disabled people take more sick leave.¹²

Discrimination and Transport:

- i. A survey of 250 disabled people by the Research Institute of Consumer Affairs found that four out of five of the people interviewed had problems with transport, and two thirds said that difficulty with using public transport was one reason for not going out more and not travelling further afield.¹³
- ii. Only 10% of London Buses Ltd buses have entry steps low enough for use by people with difficulty walking.
- iii. Only one National Express long-distance coaches in eight is accessible.
- iv. Only 130 British Rail stations are completely accessible.
- v. Wheelchair users who want to use the London Underground are advised to give 24 hours notice, travel with an non-disabled companion, and not travel in the rush hour. The automatic barriers on the underground are difficult for many disabled people to use. Guide dog users have to find a member of staff to let them through - a difficult task for a blind person.
- vi. Many insurance companies are reluctant to insure disabled drivers, and very few insure on the same basis as non-disabled drivers.

Discrimination and Education:

- i. Two studies in 1986 found that most local education authorities were failing to publicise key elements of the procedures for assessing children's special educational needs, despite being required to provide this information by the Education Act 1981.
- ii. Reports on special schools by Her Majesty's Inspectorate rated accommodation and resources "satisfactory" at best to "downright dangerous". Other reports have found specialist science facilities rare in the smaller special schools. Special schools often have no teachers with expertise in important subjects, especially science and maths.
- iii. Other official reports have looked at the position of disabled children in mainstream schools. In primary schools, most classrooms have insufficient space for children who use personal aids and equipment, many schools do not have accessible toilets or changing rooms. In most secondary schools where there are young people with physical impairments, few adaptations have been made. In many cases, inaccessibility prevented students being able to choose major subjects at GCSE.¹⁴
- iv. A 1987 survey of further education colleges found fewer than a third able to offer physical access in all teaching blocks, and more than a fifth said that they might have to reject a student "with a physical handicap" because of poor access or inadequate support. A 1990 survey of universities and polytechnics found a similar picture.

Discrimination and Housing:

- i. There are more than 4 million people with mobility impairments, but only 80,000 accessible homes.¹⁵
- ii. In 1984-9 1.2% of houses built by local authorities and new towns, and 0.6% of those built by housing associations, were accessible to wheelchair users. 6.8% of houses built by local authority/new towns and 2.4% of those built by housing associations were inaccessible to people who do not use wheelchairs, but have mobility problems.
- iii. Disabled people are disproportionately affected by the increase in homelessness. Between 1980 and 1986, the number of households accepted by local authorities as homeless categorised as "vulnerable" rose by 57%. In the same period, the number of homeless households in the category "physical impairments" rose by 92%, those in the category "mental illness" by 183%.

Segregation:

- i. If the services a disabled person needs cost less than £500 a week, s/he may be able to live in her/his own, with support from the Independent Living Fund. If they cost more, s/he may be forced into an institution.¹⁶
- ii. In the mid 1980s, despite moves towards "care in the community", there were 422,000 disabled people (including 80,000 below retirement age) in institutions.¹⁷

- iii. In the mid 1980s, fewer than half of all disabled people of working age living in institutions were in places designed specifically for them. The majority were in old people's homes, psychiatric and geriatric hospitals, or ordinary hospital wards.
- iv. Careers officers at special schools and colleges often direct young disabled people to day care centres instead of employment. Four day care centres in every ten are in the grounds of residential institutions.

Disabled People's Civic Rights and Responsibilities:

- i. Under the Representation of the People Act 1983, people with learning disabilities who live in long-stay hospitals may only vote if they fill in a "Patient's Declaration" each year. Even though the form would defeat many people who do not have learning disabilities, they must do this without any assistance. No other group of voters has to do this, nor do people with the same impairments who do not live in hospitals.
- ii. At the last general election, only 12% of polling stations were fully accessible.¹⁸
- iii. Disabled people are unlikely to be appointed as judges. The Lord Chancellor has refused to reverse a ban on blind people becoming JPs.

The Need for Comprehensive Anti-Discrimination Legislation

Disabled people in Britain are demanding comprehensive anti-discrimination legislation, similar to the laws which ban discrimination against black people and women. A new law to ban discrimination against disabled people is needed because existing laws have failed to eliminate discrimination:

- i. The 3% employment quota for disabled people established by the Disabled Persons (Employment) Act 1944 is not enforced. A TUC survey, using DE statistics, found that in the public sector the average performance was 0.8%.¹⁹ At 0.7% private sector performance is marginally worse.²⁰

- ii. The Chronically Sick and Disabled Persons Act 1970 gave disabled people greater access to public facilities. Reviews of the Act found that the DHSS and local authorities have felt free to ignore it.²¹

The TUC's special concern is with the equal employment rights of disabled people. But that can only be achieved if all the areas of life which affect employment are addressed.

Equality at work is no use if transport isn't accessible, stopping disabled people getting to work.

Or training is segregated, and disabled people don't get the qualifications they need for jobs.

Or if they cannot get accessible housing within travelling distance of their work.

That is why the TUC opposes anti-discrimination measures which only deal with employment, or any other partial legislation.

- iii. The Disabled Persons (Services, Consultation and Representation) Act 1986 was designed to give disabled people a say in their services. The Government has repeatedly refused to implement those sections giving disabled people the right to an advocate and to a written statement on their assessment.²²
- iv. The Education Act 1981 categorises disabled children as having special educational needs, and gives all children a right to an assessment of their needs, and those with special educational needs a right to appropriate education, usually in a mainstream school. Unfortunately, the conditions for integration allow local education authorities to continue with segregated education. Assessments take too long (up to a year or longer), and appeals against assessments extend this process.

Much of the discrimination that disabled people experience is institutional, not personal. When the London Underground system was designed so that thousands of disabled Londoners would be unable to use it, the intention was not to exclude them, any more than the intention was to exclude older people, women with children, or the other groups who benefit when facilities are made accessible to disabled people.

Individuals' prejudices are an important cause of discrimination against disabled people, but segregation and second class service would continue even if there were no prejudiced people.

This has an important implication for policies to counter discrimination against disabled people - campaigns to counter ignorance and prejudice about disabled people are useful, but by themselves will never be enough. Any strategy for dealing with discrimination which relies on education and persuasion alone is bound to fail.

The TUC believes that the evidence of discrimination in many walks of life, and the failure of past legislation prove that piecemeal legislation will not work. Disabled people need comprehensive legislation, banning discrimination in every sphere.

Answering the Objections

The Government often claims that comprehensive anti-discrimination legislation for disabled people is impractical, or that it would not work in this country's legal system. In fact, it is those countries whose legal systems are closest to ours which have pioneered anti-discrimination legislation.

Australians, Canadians and New Zealanders would be surprised to hear that this is an idea which will not work in a common law system - their countries all have anti-discrimination legislation for disabled people.

In 1990 President Bush said "Let the shameful wall of exclusion finally come tumbling down" as he signed the Americans with Disabilities Act. This Act has raised the profile of disabled people in US society without causing any of the problems anticipated by critics - half the adaptations employers have made as a result of the Americans with Disabilities Act have cost less than \$500!

When the US Job Accommodation Network surveyed employers about the effects of the Americans with Disabilities Act, as many reported benefits as costs. These benefits included retaining qualified employees, increasing employees' productivity, savings in insurance costs and eliminating the costs of training new employees. More than a fifth of the employers surveyed said that the Act had been worth more than \$10,000 to them!²³

Equality for Disabled People: A Price Worth Paying!

When the House of Commons debated the Civil Rights (Disabled Persons) Bill - the last attempt to introduce comprehensive anti-discrimination legislation for disabled people - the Government claimed that it would cost £17 billion a year.

The TUC is not convinced that it is ever acceptable to put a price on liberty, but we are sure that the Government's figures were an over-estimate. The true figure would probably be less than a third of this. The Government, in its Cost Compliance Assessment, in which this figure was announced, admitted that it was based on a series of "speculative guesstimates", each a worst case scenario. Lord (Jack) Ashley described it as "the worst quality document to come out of the Civil Service for many years."

The Cost Compliance Assessment ignored the fact that Civil Rights Bill allowed for the phasing in of measures such as making buildings accessible, and some items were counted twice. The Access Committee for England commented that the £10 billion estimate for making buildings accessible was "a gross over-estimation of the true costs."²⁴

What is more, the Government failed to take into account the savings from anti-discrimination legislation. If disabled people got jobs because of such legislation, they would pay taxes, and not have to rely on benefits. This alone could produce net savings of £5 billion a year.²⁵

It is likely that making products and services accessible to disabled people may have an initial cost, but, in the long run, will expand markets, and thus increase profits. There is anecdotal evidence that the Americans with Disabilities Act is already having this effect in the USA.

Critics of anti-discrimination legislation who emphasise the costs also ignore the fact that it would not only be disabled people who would benefit from it: elderly people and women with children would benefit from a more accessible environment, for instance.

The Campaign For Anti Discrimination Legislation

In 1992, an Early Day Motion by Dr Roger Berry MP, calling for civil rights for disabled people won a surprising degree of support from Conservative MPs, and campaigners wondered if it might be possible to get anti-discrimination legislation through a private member's Bill. Every year a number of MPs win a lottery for the right to Parliamentary time to debate a Bill of their own choosing. In the 1993 draw, Dr Berry won a place! He introduced the **Civil Rights (Disabled Persons) Bill**, modelled on the Americans with Disabilities Act.

Disabled people and their organisations mounted a campaign for the Civil Rights Bill, which won the admiration of professional lobbyists as one of the most effective ever. Thousands of postcards were sent by disabled people to their MPs, asking them to support the Bill. A lobby of Parliament saw two thousand disabled people coming to Westminster to ask their MPs to vote for the Bill.

This pressure plainly frightened the Government - John Major told the House of Commons that he agreed with the aims of the Bill. However, when it came to the Civil Rights (Disabled Persons) Bill's last stage, five Conservative MPs put forward enough amendments to make sure wouldn't pass.

The Bill's Parliamentary supporters smelled a rat - they suspected that the Government had encouraged these MPs to put forward these amendments. When asked, Nicholas Scott (the Minister for Disabled People) insisted that he hadn't done any such thing. Once the debate was over, and the Government was sure that the Bill's best chance had passed by, Mr Scott admitted that his civil servants had drafted the amendments.

The Government succeeded in defeating the Civil Rights Bill, but Mr Scott had to resign as the Minister for Disabled People, and the Government knew that disabled people were angry and determined to keep up their fight.

Who Supports Civil Right for Disabled People?

Anti-discrimination legislation has now got a lot of friends. The Civil Rights (Disabled Persons) Bill was supported by:

- ◆ All the political parties in Parliament (except the Conservatives)
- ◆ The House of Lords
- ◆ Trade unions and the TUC
- ◆ The British Council of Organisations of Disabled People
- ◆ The National Federation of the Blind
- ◆ The British Deaf Association
- ◆ The Spinal Injuries Association
- ◆ The UK Coalition of People with HIV and AIDS
- ◆ The Disability Alliance
- ◆ The Royal Association for Disability and Rehabilitation
- ◆ The Royal National Institute for the Blind
- ◆ The Royal National Institute for Deaf People

And many other organisations of and for disabled people.

Why the Government's Proposals Don't Go Far Enough

Five years ago, the Government didn't accept that discrimination against disabled people existed. A year ago the Government was no longer saying that, but it was steadfastly refusing to do anything about it. In 1995, the Government has been forced to introduce its own Bill.

This is a huge victory, but it does not go far enough. The TUC believes that there are important weaknesses in the Government's proposals which make the Civil Rights (Disabled Persons) Bill immensely preferable:

THE LACK OF AN ENFORCEMENT COMMISSION - As with any law, proper enforcement is essential for proper implementation. The Government are offering a monitoring agency and a talking shop. What disabled people want and deserve is a properly funded, effective and powerful enforcement agency which can investigate discrimination, take up cases and enforce the law.

THE ABOLITION OF THE EMPLOYMENT QUOTA - the Government has ignored options for improving the quota, and proposes its abolition. Even organisations which are critical of it do not accept that the Government's proposals are an adequate replacement.

AN EXEMPTION FROM THE LAW FOR SMALL EMPLOYERS - The Government proposes to exempt employers of fewer than 20 employees from complying. This is unfair - employers will only be required to do what is "reasonable" to employ disabled people, this exemption therefore allows some employers the freedom to behave unreasonably!

A LIMITED DEFINITION OF DISABILITY - The Government's definition of disability will not be sufficiently comprehensive to cover people who are discriminated against on the grounds of having a history of disability, or are *perceived* as having a disability.

NO OVERALL STATEMENT OF DISABLED PEOPLE'S CIVIL RIGHTS - The Civil Rights Bill gives disabled people a general right of access and non-discrimination in all walks of life. The Government's proposals exclude important areas of life from such a right - such as transport and education. Under the Government's proposals transport infrastructure will be included, but not the vehicles - disabled people will have a right of access to railway stations, but not the trains leaving those stations!

Unions Support Disabled People's Civil Rights

On 9 July 1993 thousands of disabled people demonstrated for equal rights in Trafalgar Square. TUC General Secretary John Monks sent a special message:

"Over many years, trade unionists have learned that equal rights are indivisible. Trade unionists cannot afford to ignore the exclusion of disabled people from full, integrated and equal participation in society, because the freedoms trade unionists cherish are undermined if anyone is denied access to them. The struggle for human dignity teaches us that solidarity must be more than a slogan - trade unions have a duty to take an active role in the campaign for disabled peoples civil rights.

"Solidarity also means supporting the right of disabled people to lead their own campaign, and supporting disabled people within the trade union movement. That is why the TUC is proud to support disabled people's campaign for anti-discrimination legislation. We have learned a lot in the course of these campaigns, and we look forward to congratulating you on the victory which is inevitable."

Notes

1. It is just as important for trade unionists to deal with discrimination in our unions as in the rest of society. The TUC guide to *Trade Unions and Disabled Members* gives advice on this.
2. Unless otherwise cited, facts on discrimination are taken from "Disabled People in Britain", C Barnes, BCODP, 1991.
3. "Access Denied", Liberty, 1994, pp 24 - 25.
4. "Rights for Disabled People Now!", Rights Now, p7.
5. "Disability and Discrimination in Employment", RADAR, 1993, p2.
6. "Disabled Adults: Services, Transport and Employment", OPCS, 1989.
7. "Disablement in the Community", Patrick and Peach, 1989.
8. "Employment and Handicap", P Prescott-Clarke, SCPR, 1990.
9. Ibid, p7.
10. "An Equal Chance?", P Graham et al, Spastics Society, 1990.
11. "The Employment of People with Disabilities", J Morrell, IFF Research for DE, 1990.
12. "Employers Attitudes Towards People with Disabilities", IMS for DE, 1993. A 1990 study by Devon Careers Service of local employers found that 93% rated their attitude as being as good or better than that of non-disabled employees and 96% rated their attendance as being as good or better. [RADAR, op cit, p3].
13. Cited in "Contact", no.65, pp17-18.
14. "Report by HMI Inspectors on Educating Physically Disabled Pupils", DES, 1989; "Provision for Primary Aged Pupils with Statements of Special Educational Needs in Mainstream Schools", DES, 1989.
15. "Rights for Disabled People Now!", Rights Now, 1994, p7.
16. Ibid, p7.
17. "The Prevalence of Disability Among Adults", OPCS, 1988.
18. Rights Now, op cit, p7.
19. "Disabled People Working in the Public Sector", TUC, 1993.

20. Commons "Official report", 22.10.93.
21. "Can Disabled People Go Where You Go?", Silver Jubilee Access Committee, 1979;
"Report by the Committee on Restrictions Against Disabled People", 1982.
22. Barnes, op cit, pp137 & 230.
23. "Hemisphere", July 1994, p 32.
24. "What Price Civil Rights?", Rights Now, 1994.
"Access Action", Access Committee for England, Summer 1994, p3
25. "Accounting for Discrimination", Rights Now, 1994.

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