**Injunctive Relief**

My name’s Catherine Casserley, I’m a barrister at Cloisters Chambers and I specialise in discrimination, human rights and employment law and particularly in disability discrimination.

When you bring a claim to court, the court can award different things for what’s called remedy. So if you succeed in your case, you can be awarded damages … so compensation. The court can also make what is called an injunction. So that means that it can order a service provider for example to do something as a result of it having discriminated against you.

Now, that might be that it has to change its policy if it has a ‘No Dogs’ policy. It might mean it has to put in a ramp if it doesn’t have a ramp. Or an accessible toilet. So it’s the court ordering the defendant to do something as a result of it having discriminated.

**What can Injunctive Relief do?**

Most claims of discrimination are brought in the Employment Tribunal and people’s focus in employment cases, because often they’ve lost their job, is about money. Often they don’t have any work, they’ve lost pension rights and damages in the employment tribunal tend to be quite large. If you’re dealing with a case that’s not in employment, for example you hadn’t been able to get into a shop or a restaurant, then what you tend to be concerned about is actually being able to get into those premises.

In addition, when you’re dealing with a case that’s about access for example, or about a ‘No Dogs’ policy in a restaurant, then the money that a court awards is actually quite small. Generally speaking, awards of the court in those cases tend to be in region of £3,000 or £4,000. The maximum, broadly speaking for a county court, to award in those cases is £7,500.

Injunctive relief means that the court will order a service provider, a restaurant for example, to make changes to the way in which it does things and that’s what people tend to want and that’s what’s different about it.

So it means that you can make a difference, not only for yourself, but for other people because that change will apply to everyone. It means for example that a restaurant or a shop will have to put a ramp in, it will have to change its ‘No Dogs’ policy and that’s what’s really different about that as a remedy, it’s not just about money, it’s about changing things for everyone.

**How can I bring a claim?**

When you bring a claim, firstly you have fill in a court form and you explain what your case is about and you have to ask for an order. So you have to make sure that you ask for that. It will come at the end of a case, so first of all the judge has to find that you have a case, that the defendant has broken the law, that they breached the Equality Act .

And then the judge has to be convinced that’s the right thing to do because it doesn’t follow that, just because there’s been a breach of the Equality Act, that there will automatically be an injunction. Defendants really don’t want to be obliged to, for example, install a ramp or change the way they do things. It can be quite a complex procedure and it’s certainly something that I would advise you to get advice about if it’s something that you want to achieve with your case.

**Can you give a case example?**

There haven’t actually been that many injunctions, I think probably because a lot of cases settle but also because people don’t necessarily know that this is something that the courts can give to them.

The first is a case called Allen and Royal Bank of Scotland and that case involved a relatively young boy who’d opened an account with the Royal Bank of Scotland and he’d done this when he was a young boy. As the judge found, the Royal Bank of Scotland had actually gone into his school and offered an incentive to young people to join them.

He opened an account but when he went to the branch, he found that he couldn’t get in because there were steps there. In fact they sent him to another bank and he had difficulty in fact in withdrawing money there and so he brought a claim against them under, at that time it was the Disability Discrimination Act.

He claimed damages for his injury to feelings but he also asked for an injunction requiring them to put in a platform lift so that he as a wheelchair user, and of course other wheelchair users could get into the premises. I represented him in that case and in fact, before the hearing, he was offered a pretty decent sum of money in order to settle his claim.

He said, “If I take this money, will it make a difference to other people?” and we said, “Well, no, not really because that’s just the money and it doesn’t mean that they will make a change to the building,” and he said, “Well, in that case I’m not going to take it,” which was a pretty amazing thing for a young boy of that age to do because it was quite a decent sum of money.

So the case went ahead and the judge found that they had failed to make reasonable adjustments and we argued for an injunction - and we did have to argue because they did not want to make changes - and the judge ruled in our favour. Now, they then appealed the decision on liability, i.e. the fact that they had breached the Disability Discrimination Act. They lost the appeal and in fact the judge awarded more money to David for his injury to feelings. So in total it was actually £9,000 at the end of the day for him and of course they had to install a platform lift at a cost of £250,000. They did that and we have a lovely photo of David using that platform lift and so that made a really big difference and we were able to publicise it, a big difference to him and indeed to other disabled people who are able to use that. So that’s a really good example of how you can make a difference.

**Where can I get advice?**

Probably the best thing to do is to go Disability Rights UK. There are only really a few lawyers who specialise in this area and it can be complex, it can be difficult. Of course there are cases that you can run yourself but injunctive relief is really important if you want to make a difference and you want things to change in particular.

There are some cases that it might not be suitable for, if you’re never going to go back somewhere, if it was a one-off incident, or indeed if the organisation that you’re complaining about has already made the changes, you may not need it. But if you do need it and you do need to make a difference then it is really important that you get advice about it. So I would go to Disability Rights UK who will be able to help you.