



House of Commons  
Women and Equalities  
Committee

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# **Building for Equality: Disability and the Built Environment**

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**Ninth Report of Session 2016–17**

*Report, together with formal minutes  
relating to the report*

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## Women and Equalities Committee

The Women and Equalities Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Government Equalities Office (GEO).

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Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

## ***Committee staff***

The current staff of the Committee are Judith Boyce (Clerk), Sharmini Selvarajah (Second Clerk), Tansy Hutchinson (Committee Specialist), Holly Dustin (Committee Specialist), Shai Jacobs (Committee Specialist), Asaad Qadri (Inquiry Manager), Alexandra Hunter-Wainwright (Senior Committee Assistant), Mandy Sullivan (Committee Assistant), and Liz Parratt (Media Officer).

## ***Contacts***

All correspondence should be addressed to the Clerk of the Women and Equalities Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 6123; the Committee's email address is [womeqcom@parliament.uk](mailto:womeqcom@parliament.uk).

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## Summary

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All too often, disabled people find their lives needlessly restricted by features of the built environment. Many workplaces and service premises are inaccessible, there is very little choice of where to live, and the public spaces through which people need to move can be prohibitively excluding. Together these factors constitute an unacceptable diminution of quality of life and equality.

This is an issue that affects us all: not just because, even if not disabled ourselves, most people are related to, work with or are friends with someone who is, but because increases in average life expectancy will mean that, over time, an ever-greater proportion of the population will be living with disability.

Legislation is in place which should, in theory, prevent inaccessible buildings and public spaces being created and enduring. The Equality Act 2010 requires employers and bodies providing services to anticipate the need for reasonable adjustments so as not to discriminate against disabled people; this is relevant not only to the occupiers of buildings but also to the planning and building control process. However, the

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burden of ensuring that an accessible environment is achieved falls too heavily at present on individual disabled people, an approach that we consider to be neither morally nor practically sustainable. That burden needs to lie more obviously with the bodies who create, occupy and manage the environment.

The Government has in place a range of levers that can be used to achieve more accessible built environments: national planning policy and guidance states that local planning authorities should take inclusive design into account, and building regulations stipulate that reasonable provision should be made for people to gain access to and use buildings. The levers also encompass tools such as Disabled Facilities Grants, and they cross departmental boundaries. We believe that greater coordination and leadership is needed to make this framework effective, and to make it clear that inclusive design is a statutory requirement, not just a 'nice-to-do'.

Our first key conclusion is, therefore, that the Government must act to more visibly lead the charge in improving access and inclusion in the built environment, through public procurement, fiscal initiatives, transparently modelling best practice, and ultimately, showing strategic leadership by bringing together

the full range of work on improving access and inclusion in the built environment into a coherent and transparent strategy. The Department for Communities and Local Government should be held responsible for making this happen.

Secondly, the Government should make it easier for local planning authorities to follow this lead through revision and clarification of national planning policy and guidance. Local Plans should not be found sound without evidence that they address access for disabled people in terms of housing, public spaces and the wider built environment; to support this, the Equality and Human Rights Commission should investigate the Planning Inspectorate's compliance with the Equality Act. Planning consent should only be given where there is evidence that a proposal makes sufficient provision for accessibility.

More ambition is needed in the standards the Government sets for the homes that the country desperately needs. There is ample evidence, nationally, for the Government to require a reasonable level of accessibility for all new homes. Sadly, the ability to 'visit' a home is the current mandatory minimum—and sometimes the standard is not effective at achieving even that. In particular, the exemption for conversions means that

substantial developments of dwellings can proceed without any provision for accessible housing at all; we recommend that this be changed. In order to adopt a higher standard, a local authority currently has to prove that there are enough disabled people already living in the area to warrant building homes that are, or could be made, accessible. This is the wrong way around. Housing standards need to be future-proofed and to produce meaningful choice in housing, not just to respond to immediate local need. The Government should raise the mandatory minimum to Category 2, the equivalent of the former Lifetime Homes standard.

Much more can be done to make the public realm and public buildings more accessible: through building accessible workplaces, and incentivising employers to improve existing ones; by updating the regulations for new buildings, which are currently based on a 16 year-old standard; and by amending the Licensing Act 2003 to make it clear that equal access is as important a consideration as, for example, having adequate measures to prevent noise nuisance. Greater provision of

Changing Places toilets should be a specific priority: such facilities should be required in all large building developments that are open to the public.

Finally, we address one specific issue relating to inclusive streetscapes. Shared spaces schemes are a source of concern to many disabled people across the country, particularly features such as the removal of controlled crossings and kerbs and inconsistency in the design of schemes from place to place. We heard reports from many groups and individuals that their ability to move about freely in the public realm had been severely curtailed by the implementation of schemes which they considered to be unsafe. In light of such evidence, we recommend that the Government urgently replace the 2011 guidance on shared spaces and ensure that the new guidance is clearly founded on an inclusive design approach. In the meantime, the Government should require local authorities to call a halt to new shared space schemes and to review existing schemes, in partnership with local disabled people.

In the course of our inquiry we heard from housebuilders, standard setters, inspectors, lawyers and local authorities, but no voices are more important than those of disabled

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people themselves. We have also made recommendations for improving engagement with disabled people to ensure that they have a meaningful input, at both national and local level, to the creation of inclusive buildings and environments.

# 1 Introduction

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1. For over 20 years the law of England and Wales has prohibited disability discrimination. Since October 2004, the law has also required those responsible for buildings open to the public to proactively ensure those buildings are as accessible as can reasonably be achieved—before an individual disabled person encounters barriers that could have been removed with a little forethought.

2. The aspirations that disabled people hold are no different to those of any of us: to work, to spend time with family and friends, and to do the things that we enjoy and that give our lives meaning. We have seen the numbers of disabled people in employment rise consistently in recent years,<sup>1</sup> and the Government has been clear that it wants disabled people to be able to play a full, and equal, part in society.

3. Yet disabled people are still finding their lives needlessly restricted. There are 1.4 million disabled people or those with health conditions who don't have a job, but want to work,<sup>2</sup> and

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1 *Key statistics on people with disabilities in employment, Briefing Paper Number 7540*, House of Commons Library, December 2016

2 Citizens Advice , [Working with a health condition or disability](#) 2015/16

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we heard of people unable to leave their homes for any length of time, or at all, due to the lack of something as basic as a toilet they could use.<sup>3</sup>

4. Witnesses to our inquiry told us of a wide range of situations in which they faced disabling barriers: an inadequate supply of accessible homes;<sup>4</sup> public and commercial buildings without step free access,<sup>5</sup> or with poor signage;<sup>6</sup> workplaces people couldn't get into;<sup>7</sup> failures to install or maintain hearing loops;<sup>8</sup> sports halls with surfaces unsuitable for wheelchair sports;<sup>9</sup> failures to exempt assistance dogs from bans on dogs in public parks;<sup>10</sup> the installation of 'dog grids' preventing assistance dogs from

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3 Laura Rutherford ([DBE0159](#)); Centre for Accessible Environments ([DBE0102](#)); Around the Toilet ([DBE0087](#))

4 Later Life Ambitions ([DBE0108](#)); College of Occupational Therapists Specialists Section in Housing ([DBE0076](#)); Angela Cavill-Burch ([DBE0001](#)); Centre for Ageing Better ([DBE0003](#)); Aspire ([DBE0026](#)); Care and Repair England ([DBE0053](#))

5 Ms Julie Fleck ([DBE0083](#)); Inclusion London ([DBE0190](#)); Wheels for Wellbeing ([DBE0086](#)); Scottish Disability Equality Forum ([DBE0095](#))

6 Vision 2020 UK ([DBE0075](#)); Newcastle Disability Forum ([DBE0030](#)); Mr Ronald Koorm ([DBE0027](#))

7 Stephanie Swain ([DBE0032](#)); Q16 (Zara Todd)

8 Unity Law ([DBE0160](#)); Disability Dynamics UK ([DBE0042](#)); Vision 2020 UK ([DBE0075](#))

9 Sport England ([DBE0165](#)), citing the work of British Wheelchair Basketball.

10 The Kennel Club ([DBE0175](#))

entering some public spaces;<sup>11</sup> restrictive gates on paths and cycle routes blocking wheelchair users and those with adapted cycles;<sup>12</sup> lack of cycle parking suitable for non-standard or adapted cycles;<sup>13</sup> the 'green man' at traffic lights not allowing enough time to cross the road;<sup>14</sup> streets where the removal of kerbs and controlled crossings made navigation impossible or unsafe;<sup>15</sup> streets made impassable by pavement parking,<sup>16</sup> cars parked across dropped kerbs,<sup>17</sup> 'A' Boards and other 'street clutter' such as wheelie bins;<sup>18</sup> and the continued use of uneven surfaces such as cobbles creating slip hazards.<sup>19</sup> Our inquiry set out to ask why such problems remain, and to identify practical changes that the Government can take forward.

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11 The Kennel Club ([DBE0175](#))

12 Dr Rachel Aldred ([DBE0132](#))

13 Wheels for Wellbeing ([DBE0086](#))

14 People First (self advocacy) ([DBE0183](#))

15 Vaughan Rees ([DBE0188](#)); People First (self advocacy) ([DBE0183](#)); Sarah Gayton ([DBE0184](#)); Thomas Pocklington Trust ([DBE0123](#)); Guide Dogs ([DBE0114](#)); RNIB ([DBE0110](#)) and many others (see further Chapter 6)

16 Dr Rachael Luck ([DBE0169](#)); Thomas Pocklington Trust ([DBE0123](#)); Carole Holmes MBE ([DBE0022](#)); British Parking Association ([DBE0148](#))

17 Centre for Housing Policy ([DBE0093](#)); Bristol Disability Equality Forum ([DBE0078](#))

18 Thomas Pocklington Trust ([DBE0123](#)); Centre for Housing Policy ([DBE0093](#)); Carole Holmes MBE ([DBE0022](#)); David Hunter ([DBE0019](#))

19 Michael Broderick ([DBE0179](#))

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5. In Chapters 2 and 3 we examine how the Government can take a more strategic leadership role than it has to date, and how inclusive design principles can be embedded into the various stages of law and policy affecting the creation and evolution of the built environment.

6. From the evidence we heard, three areas stood out as needing specific examination, which are dealt with in turn in the succeeding chapters: in Chapter 4 we consider how to improve the supply of accessible, and not just—often barely—visitable, homes; Chapter 5 examines how public buildings and places could be made more accessible—including workplaces, hospitals, colleges, universities, shops, pubs, restaurants, theatres, cinemas and other buildings and spaces that disabled people need to access to live their lives; and in Chapter 6 we examine the evidence on ‘shared spaces’—a form of street design whose proponents argue makes the public realm better and safer, but whose critics feel acts to exclude and endanger many disabled people.

7. A core thread running through these questions was the need to shift the burden of ensuring an accessible environment is achieved off the shoulders of individual disabled people, and onto those who are responsible for its creation and management.

This was also a key theme in the 2016 report of the House of Lords Committee on the Equality Act 2010 and Disability, on which our inquiry built. Our findings reinforce the request by the Chair of that Committee, Baroness Deech, for the Government to look again at its response to that inquiry.<sup>20</sup>

8. We launched our inquiry in August 2016 with a public call for evidence, and continued gathering evidence into March 2017. This has proved to be a good time to look at what more can be done. The Government has agreed to use the Neighbourhood Planning Bill to put further pressure on local authorities to make sufficient provision for accessible housing,<sup>21</sup> and has published a Housing White Paper.<sup>22</sup> The Equality and Human Rights Commission is using its statutory powers to conduct an inquiry into housing and disability.<sup>23</sup> New British Standards Codes of Practice on accessibility and inclusive design are being developed<sup>24</sup> and the Construction Industry Council has published an 'Essential Principles Guide' for creating an accessible and inclusive

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20 HL Deb, 06 September 2016, [col 965](#) [Lords Chamber]

21 HL Deb, 02 February 2017, [cols 261–265](#) [Lords Chamber]

22 Department for Communities and Local Government, [Fixing Our Broken Housing Market](#) (February 2017)

23 Equality and Human Rights Commission, '[Inquiry into housing for disabled people](#)', accessed 20 April 2017

24 BSI Committee B/559 ([DBE0084](#))

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environment.<sup>25</sup> The Department for Transport is developing an accessible transport action plan<sup>26</sup> and the Chartered Institute for Highways and Transport is conducting a review of shared space schemes.<sup>27</sup> Much is being done, but our evidence tells us that more is needed if we are to truly make progress in enabling disabled people to have the same opportunities as everyone else, by creating a more accessible, and inclusive, built environment.

9. We received over 160 written submissions, including many from individual disabled people and their organisations. We are particularly grateful to have received a number of submissions from private individuals giving us the benefit of their own and their family's experiences of trying to live a full life in an inaccessible environment. We heard oral evidence in four sessions, starting with disabled people's organisations and ending with Ministers. We heard from housebuilders, standard setters, inspectors, lawyers and local authorities. We visited Bath, Birmingham and Leeds to hear from disabled people and those handling issues of accessibility on the ground. We are grateful to all those who gave us evidence, on which our conclusions are based. We were

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25 CIC, '[CIC launches essential principles guide](#)' Accessed 20 April 2017

26 Q191 (Andrew Jones MP, Under-Secretary of State, Department for Transport).

27 Chartered Institute of Highways and Transportation ([DBE0118](#))

assisted in this inquiry by two specialist advisers: Professor Anna Lawson<sup>28</sup> and Rachel Smalley,<sup>29</sup> and would like to thank them for their invaluable support and advice.

## The social model of disability

10. Throughout the inquiry we have used the social model of disability, meaning that the focus of our inquiry has been on

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28 Professor Lawson declared the following interests: Professor of Law at the School of Law and Director of the Centre for Disability Studies at University of Leeds; Member of the Equality & Human Rights Commission's Disability Committee; Member of the co-ordinating research team of the EU Academic Network of Experts on Disability; Member of JUSTICE's Council; Advisor to the Business Disability Forum; Member of Disability Rights UK; Member of Law & Society Association; Member of the Socio-Legal Studies Association; Member of Royal National Institute of Blind and Partially Sighted People; Member of Society of Legal Scholars; Member of University and College Union; Member of Society of Visually Impaired Lawyers.

29 Rachel Smalley declared the following interests: Full time employee of the Greater London Authority, employed as Principal Advisor: Access and Inclusion; Owner and director of RCS Inclusive Design Consultancy Ltd; National President of the Access Association; a member of the Building Regulations Advisory Committee; Governor at Leeds College of Building; a committee member on two British Standards Committees under B559 – responsible for BS8300 vols. 1 and 2; Listed as a Built Environment Expert with Design Council Cobe; Board member for the BEPE project (built environment professional education project).

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how the built environment, and the processes which act to create it, need to change to remove disabling barriers. There are two consequences to this.

11. Firstly, the Equality Act 2010 requires those providing services to the public, and those performing public functions, to anticipate the need for reasonable adjustments. Adopting the social model means planning in advance for the fact that disabled people will want or need to use a building or public space, and making the reasonable adjustments needed to facilitate this. This report examines some of the ways in which this could be improved.

12. Secondly, the social model implies that an approach that relies on individual disabled people bringing a challenge each and every time they encounter a disabling barrier is neither morally nor practically sustainable. This is, unfortunately, the primary method of enforcement provided for by the Equality Act 2010, leading the House of Lords Committee on the Equality Act and Disability to make a number of recommendations for reducing or removing the burden of enforcement from disabled people.<sup>30</sup> This report seeks to build on those recommendations

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30 House of Lords Committee on the Equality Act 2010 and Disability, Report of Session 2015–16, [The Equality Act 2010: the impact on disabled people](#) HL Paper 17

and so considers further ways in which the Government should take a more proactive approach to both preventing inaccessible places being created in the first place, and enforcing the legal obligations to make the existing built environment as accessible as it can be.

## **Disability in the UK**

13. In 2011 the Census found that around 11.5 million people in the UK (18 per cent of the population) had a long-term health problem or disability that limited their day-to-day activities either a lot or a little. In England and Wales four per cent of people aged 0 to 15, nine per cent of people aged 16 to 49, 24 per cent of people aged 50 to 64 and 54 per cent of people aged 65 or over had a long-term health problem or disability that limited their day-to-day activities either a lot or a little.

### People whose day-to-day activities are limited a lot or a little, England and Wales

Population		Percentages	
Day-to-day activities limited...		Day-to-day activities	
... a lot	... a little	... a lot	... a little
164,695	234,510	2%	4%
974,651	1,317,790	4%	9%
1,111,585	1,302,176	11%	24%
2,518,781	2,424,253	27%	54%
<b>Total</b>		<b>9%</b>	<b>18%</b>
<b>population</b>		<b>56,075,912</b>	<b>56,075,912</b>

Source: ONS NOMIS – Census 2011 – DC3201EW – Long-term health problem or disability by general health by ethnic group by sex by age

14. Age UK made the point in their evidence to us that healthy life expectancy is not keeping pace with life expectancy; this means that more of us will need to manage long-term conditions as we age, as well as care for others. Age UK cited figures estimating that, without intervention in age-related disease, there will be over 6.25 million older people with a long-term limiting illness or disability by 2030.<sup>31</sup>

15. While not all those in these groups will be disabled, it is clear that disabled people make up a significant, and increasing, proportion of the UK population. Most people, even if not disabled themselves, will be the employer, colleague, friend, family member or carer of someone who is. Disability is something that affects us all, and enabling disabled people to play a full and active part in society is something that will benefit us all.

## Devolution

16. Our inquiry has not specifically addressed the law and policy of devolved administrations. We did receive evidence from both Scotland and Wales, which strongly suggests that many of the barriers faced by disabled people are the same throughout the

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31 Age UK ([DBE0156](#))

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UK. We hope that this report may therefore be of use to those seeking to improve the situation outside England and of interest to those administrations.

## 2 Strategic leadership

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17. The Government has in place a framework of legislative levers to achieve a more accessible and inclusive built environment. In later chapters we consider how that framework should itself be improved—but even as it currently stands there is more that the Government can, and should, be doing to make better use of those levers and to achieve a real, and significant, impact on removing disabling barriers. One element of this is ensuring that the State leads by example at national and local levels, not least in involving disabled people in decisions affecting the environment in which they live.

### **Bringing coherence and impact to the legal framework**

18. Broadly speaking, accessibility of the built environment is governed by three main areas of law:

- a) Firstly, national planning policy and guidance, set out in the National Planning Policy Framework, states that Local Plan policies developed by local planning authorities should “take into account the need to design inclusive

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developments”,<sup>32</sup> including what a local authority needs to do if it wishes to apply the ‘optional’ housing standards in the Building Regulations, for example to require a proportion of new homes to be built to one of those standards. Local planning authorities are then expected to take decisions on individual planning applications in line with these policies. This is explored further in Chapter 3.

- b) Secondly, Part M of the Building Regulations provides that “reasonable provision” should be made for people to gain access to and use a building and its facilities.<sup>33</sup> For dwellings, the Regulations also set out two ‘optional’ standards: the first of which (M4(2) or ‘category 2’) adds a requirement for provision to meet the needs of “some older or disabled people” and be adaptable to meet future needs; and a second (M4(3) or ‘category 3’), that, if applied, requires a dwelling to be able to be used by, or be adapted for use by, wheelchair users. The Regulations apply to new buildings and some, but not all, changes of use, although the optional housing standards only

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32 Department for Communities and Local Government ([DBE0124](#))

33 Department for Communities and Local Government, [Part M ‘Access to and Use of Buildings’, M1, Access and use](#) (2015)

apply where a local authority takes the necessary steps to introduce planning policy requirements as per Planning Practice Guidance.<sup>34</sup>

Much more detailed guidance on what the Government deems to be 'reasonable provision' or satisfactory under the Building Regulations is given in the 'Approved Documents' to Part M, volumes 1 (applicable to dwellings) and 2 (applicable to non-dwellings).<sup>35</sup> While not legally binding, these give practical guidance on how the requirements of the Building Regulations could be satisfied and if not followed a developer would have to identify an alternative means of meeting these.

- c) Finally, the Equality Act 2010 imposes a range of duties relevant not only to the planning and building control processes, but also to those who use the buildings as employers and service providers. These include duties on public authorities, individual employers, and service

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34 See further below, Chapter 4

35 Department for Communities and Local Government, [Part M 'Access to and Use of Buildings', M1, Access and use](#) (2015)

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providers not to discriminate—including by making reasonable adjustments so that disabled people are not placed at a substantial disadvantage.<sup>36</sup>

Public authorities, including private companies carrying out ‘public functions’, are also subject to the public sector equality duty (PSED), which requires public bodies and those performing public functions to have due regard to the need to advance equality for, among others, disabled people. More specifically, due regard must be given to “the steps involved in meeting the needs of [disabled persons]”, including “steps to take account of disabled persons’ disabilities.”<sup>37</sup>

19. This framework may appear at first sight to be fairly straightforward. In practice, however, the situation can be rather more complicated and less robust than this model suggests.

20. The Chartered Institute for Highways and Transport characterised the strategy for achieving inclusive built environments as “weak”, pointing out that there are only two references to disability in the National Planning Policy Framework (NPPF), one

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36 Equality Act 2010, [section 20](#)

37 Equality Act 2010, [section 149](#)

relating to transport and one relating to housing.<sup>38</sup> The Royal Institute of British Architects (RIBA) argued that the NPPF was “vague” in respect of accessibility and placed undue emphasis on viability of developments.<sup>39</sup> Inclusive design is itself only briefly mentioned in the NPPF and, when asked if inaccessible design is by definition poor design, Steve Quartermain, Chief Planner at the Department for Communities and Local Government, told us that “the judgment is for the decision maker at the time”,<sup>40</sup> suggesting less clarity than at first appears.

21. The use of Building Regulations, with their associated enforcement mechanisms, to provide for accessible housing standards was welcomed by some of those who gave us evidence,<sup>41</sup> but witnesses also argued that the requirements to demonstrate need and viability complicated matters.<sup>42</sup>

22. Regarding the third limb—the requirements of equalities legislation—evidence was presented to us and to the House of Lords Committee on the Equality Act and Disability that

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38 Chartered Institution of Highways and Transportation ([DBE0118](#))

39 Royal Institute of British Architects ([DBE0121](#))

40 Q66

41 Q110 (Jennifer Peters, Greater London Authority)

42 Q140 (Jennifer Peters, Greater London Authority); Bradford and District Strategic Disability Partnership ([DBE0139](#)); RIBA ([DBE0121](#)), British Standards Institution’s (BSI) Committee B/559 ([DBE0084](#))

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the reasonable adjustments duties were “neither well known nor well understood”,<sup>43</sup> and that heavy reliance on individual disabled people bringing legal action to enforce the Equality Act 2010 was both inappropriate and ineffective.<sup>44</sup> This has led to proposals to require local authorities to take a more proactive role in enforcing the duties under the Act,<sup>45</sup> and for changes to legislation to enable this, such as requiring accessibility as part of licensing regimes,<sup>46</sup> a suggestion we return to below.

23. Adding to the complexity, witnesses pointed to other parts of the ‘accessibility jigsaw’:

- a) Standards developed by the British Standards Institution, which act as industry Codes of Practice, formed the

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43 House of Lords Committee on the Equality Act 2010 and Disability, Report of Session 2015–16, [The Equality Act 2010: the impact on disabled people](#) HL Paper 17

44 Doug Paulley ([DBE0186](#)); Unity Law ([DBE0160](#)); Councillor Douglas Johnson ([DBE0135](#)); Inclusion London ([DBE0097](#)); British Standards Institution’s (BSI) Committee B/559 ([DBE0084](#))

45 Access Association ([DBE0057](#)); Centre for Accessible Environments ([DBE0102](#)); British Standards Institution’s (BSI) Committee B/559 ([DBE0084](#))

46 Bradford and District Strategic Disability Partnership ([DBE0139](#)); RNIB ([DBE0110](#)); Sheffield Access Liaison Group ([DBE0099](#)); British Standards Institution’s (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#)); Centre for Accessible Environments ([DBE0102](#)); Doug Paulley ([DBE0186](#))

basis for guidance in the Building Regulations in 2004.<sup>47</sup> However, the standards used for the guidance date back to 2001 and have developed further in the intervening years. The Institute is also in the process of developing new standards on accessibility in the external environment and buildings and is working towards guidance on design that better meets the needs of people with neuro-diverse conditions;<sup>48</sup>

- b) Even where local planning authorities had made provision for accessible homes, we received evidence that disabled people often couldn't find or access such homes due to a lack of a centrally held database. One suggested solution to this was for local authorities to have accessible housing registers;<sup>49</sup>
- c) The means-tested Disabled Facilities Grant was cited by many as a crucial means by which adaptations can be

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47 Department for Communities and Local Government ([DBE0124](#))

48 Department for Communities and Local Government ([DBE0124](#)); British Standards Institution's (BSI) Committee B/559 ([DBE0084](#))

49 Inclusion London ([DBE0097](#)); written evidence; Motor Neurone Disease Association ([DBE0064](#)); Access Association ([DBE0057](#)); RIBA ([DBE0121](#)); Thomas Pocklington Trust ([DBE0123](#))

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made to existing homes,<sup>50</sup> but witnesses also told us of people having to wait a long time for such adaptations to be made;<sup>51</sup>

- d) Although we deliberately did not include transport in the terms of reference for our inquiry, some witnesses cited problems with aspects of the built environment that are the responsibility of transport bodies rather than councils, including some street design and the availability of lifts and toilets in transport infrastructure. The Department of Transport has a role in addressing the availability of Changing Places toilets and concerns about the use of 'shared space' principles, as well as publishing national guidance on the design of streets and public spaces.<sup>52</sup> That Department is also currently developing an accessibility action plan, which is welcome but also adds a further element to the picture.<sup>53</sup>

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50 Age UK ([DBE0156](#)); City of Nottingham's Disability Involvement Group ([DBE0142](#)); Care and Repair England ([DBE0053](#)); Aspire ([DBE0026](#)); Habinteg ([DBE0100](#))

51 Gosport Access Group Disability Forum ([DBE0117](#)); Aspire ([DBE0026](#)); Habinteg ([DBE0100](#)); Dr Caroline Voisey ([DBE0082](#))

52 We consider this further in Chapters 5 and 6.

53 Q200 (Andrew Jones MP)

24. This complex jigsaw led the Chartered Institute for Highways and Transport (CIHT) to argue that there was a lack of clarity on how access for disabled people could be delivered “in a complex mix of different organisations with different roles and purposes.”<sup>54</sup> The CIHT felt that there was a need to bring together the different parts of the system in a more coherent way:

There should be a clear strategy, set nationally, for collaboration between different policy areas in making inclusive and accessible environments. The strategy must include the entire range of professional inputs so that separate commissioning bodies are clear who should be involved, how they will contribute and how accessible environments can be delivered.<sup>55</sup>

25. This call for coordination was echoed by Later Life Ambitions,<sup>56</sup> and the Royal Town Planning Institute (RTPI) set out the case for greater leadership from the Government:

Really, if I was making an ask of you, it would be this: it is not more tinkering with the planning system we

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54 CIHT ([DBE0118](#))

55 CIHT ([DBE0118](#))

56 Later Life Ambitions ([DBE0108](#))

## 32 Building for Equality: Disability and the Built Environment

need here; it is for Government to set the tone. It is the use of all the other tools, fiscal and procurement. It is about giving people the capacity.<sup>57</sup>

26. The Minister of State for Housing and Planning, Gavin Barwell MP, acknowledged that “clearly, this work does cross a number of Government Departments and different ministerial responsibilities”, and as such there may be a need for a cohesive overall plan. He told us that:

in terms of the ability of members of the public to see that work drawn together in one place, there may well be a case for that. There is certainly a lot of work going on. [...] Whether there is a case for trying to publish this work in one document so people can see it in one place is something we are happy to reflect on.<sup>58</sup>

**27. Strategic leadership and greater coordination is needed across Government in order to join up the different parts of the jigsaw, including planning, the building regulations, the Equality Act, Disabled Facilities Grants, ways for**

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57 Q72 (Trudi Elliott, RTPI)

58 Q198

disabled people to find accessible housing and facilities and the activities of other Government Departments, such as the Department for Transport.

***28. We recommend that a cross-departmental strategy be established to bring together all aspects of built environment policy affecting accessibility. The Department for Communities and Local Government (DCLG) should be accountable for this strategy. DCLG should also convene a stakeholder forum of, among others, disabled people, to influence and provide feedback on this strategy annually.***

### ***Involvement of disabled people***

29. Involvement of disabled people was a cornerstone of the original Disability Equality Duty, and its importance has been highlighted in case law<sup>59</sup> and technical guidance on the Public Sector Equality Duty in the 2010 Equality Act.<sup>60</sup> It was also cited by many of our witnesses as crucial for attaining a truly inclusive built environment. As the Design Council explained:

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59 *R. (on the application of (1) Luton Borough Council and Nottingham City Council (2) Waltham Forest London Borough Council (3) Newham London Borough Council (4) Kent County Council (5) Sandwell Metropolitan Borough Council) v. the Secretary of State for Education* [2011] EWHC 217 (Admin) Holman J. at para 114

60 Equality and Human Rights Commission, [Technical Guidance on the Public Sector Equality Duty: England](#) (2014)

### 34 Building for Equality: Disability and the Built Environment

Engaging individuals and groups in all stages of a project is indispensable. Without it, there is a continuing risk that we create homes, public buildings and spaces which cannot be used by significant numbers of people.<sup>61</sup>

30. We heard examples of where involvement had worked well, such as a group in Bradford led by people with dementia who had provided feedback on signage and accessibility, advised on a hospital refurbishment and on planning the local Westfield Shopping Centre,<sup>62</sup> as well as Planning Aid, a service run by volunteers from the Royal Town Planning Institute to help people who might otherwise be excluded from the planning system to engage effectively.<sup>63</sup> Nevertheless, the predominant message was that disabled people did not feel that they were being effectively involved in local decision-making.

31. This was in part due to the methods used to engage. The Thomas Pocklington Trust felt that more could be done to

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61 Design Council ([DBE0125](#))

62 RTPI ([DBE0122](#))

63 RTPI ([DBE0122](#))

ensure modes of consultation are inclusive and accessible to all<sup>64</sup> and the Chartered Institute of Logistics and Transport in the UK argued that:

it is vital to remember that surveys and other forms of engagement cannot just be done on-street. Many older and disabled people may have lost the confidence to go out into certain areas or streets and unless their views are also sought, bad judgements may be made about what works for a local community. Seeking to engage with what might be determined “displaced” people—those who no longer have the confidence to be out and about—is not easy but can be done through collaboration with social services and voluntary organisations supporting older and disabled people.<sup>65</sup>

32. The second, and more significant, reason was that many felt that engagement, where it took place, was not meaningful and did not alter outcomes. Gosport Access Group and Disability Forum told us that:

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64 Thomas Pocklington Trust ([DBE0123](#))

65 Chartered Institute of Logistics and Transport in the UK ([DBE0180](#))

## 36 Building for Equality: Disability and the Built Environment

As an access group, we often have engineers and architects come and 'tell' us what they are going to do, but they do not actually ask for or take account of our views.<sup>66</sup>

33. The City of Nottingham's Disability Involvement Group (DIG) described effective contact with the city council on theatre refurbishment and East Midlands Trains on rail station closures, but reported that on another project it appeared that a decision had been made before they were involved; the group felt that the council had "used our involvement to imply that we had given approval to the scheme."<sup>67</sup> Leicester Disabled People's Access Group stated that they struggled to interpret plans and felt that they were often involved too late to make any difference, leaving them frustrated and at odds with decision-makers.<sup>68</sup>

34. Independent Lives, a West Sussex and Hampshire based user-led disability organisation, spoke for many witnesses when it called for involvement to be at the point of design. They argued that:

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66 Gosport Access Group Disability Forum ([DBE0117](#))

67 Disability Involvement Group ([DBE0142](#))

68 Leicester Disabled Peoples Access Group ([DBE0131](#))

Meaningful conversations about accessibility can be had if disabled people are consulted and listened to during the design process. By improving the built environment through discussion, there is a possibility for real innovation in regards to accessibility.<sup>69</sup>

35. Sense gave a practical example of this type of innovation. They had recruited a group of Champions—local people with disabilities and family members—who highlighted issues of accessibility, lighting and acoustics in the design of TouchBase Pears, a community centre where services for people with sensory impairments will be delivered. The Champions were involved from the very start of the process and their input resulted in changes to layout and design.<sup>70</sup>

**36. Engagement with disabled people is happening at the local level, and there is good practice that shows what can be achieved when people are engaged meaningfully. However, all too often engagement is experienced as an afterthought or a mechanistic process with little effect on the outcome. *We recommend that best practice guidance is produced by DCLG in partnership with disabled people's***

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69 Independent Lives ([DBE0101](#))

70 Sense ([DBE0103](#))

***organisations to provide guidance for local authorities and built environment professionals on how and when to involve disabled people in the processes which lead to the creation of built or external environments.***

## **Leading by example**

### ***The use of public money***

37. Some witnesses argued that the Government should be showing leadership in creating accessible environments through its use of public funds, specifically by applying conditions through procurement processes and grant funding. The project board for the main group working to embed inclusive design into education and training of built environment professionals (the 'BEPE' Project) argued for:

Government as client and commissioner of buildings setting an example by embedding a requirement for an inclusive design process into all government funded development projects—making an inclusive design process explicit in the strategic brief at the outset of a project, in the budget and in the procurement process,

when any government department commissions built assets, and progressively as existing government-owned building stock is maintained and improved.<sup>71</sup>

38. The Committee responsible for the British Standards on access to buildings for disabled people (B/559) explained that procurement bodies, including commercial and retail organisations, house builders and housing associations, can choose simply to comply with minimum building regulations. They could, however, choose to adopt more rigorous standards—such as those contained within the British Standards—and to specify compliance with these in contract documentation.<sup>72</sup>

39. This had been an important part of the approach to delivery of the London 2012 Olympic and Paralympic Games and its legacy programme, which Trudi Elliot of the Royal Town Planning Institute described as “the shining example of inclusive planning and delivery”<sup>73</sup>. Julie Fleck, an expert in accessibility whose work helped steer planning for the Games, and who now leads the work of the BEPE Project, argued that the Inclusive Design Strategy used by the London Legacy Development Corporation should be

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71 Supplementary written submission from the Built Environment Professional Education Project Board ([DBE0191](#))

72 British Standards Institution ([DBE0084](#))

73 Q64

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a model adopted by the government for all publicly-funded major developments. This would entail addressing accessibility issues in the procurement process, rather than relying solely on the planning and building control process to address accessibility.<sup>74</sup>

40. This approach was supported by Trudi Elliot of the Royal Town Planning Institute, who told the Committee that it:

was all about proactive planning, and using every tool, planning and non-planning, in the box. If you look at that, one of the biggest sets of tools [...] was procurement. By the time an application gets to planning, we have missed too many moments. In the Olympics, the planning tools were aligned with the procurement tools. That is a very, very powerful way forward.<sup>75</sup>

41. The Chair of a local access group made a similar point when he told us that many examples of good access and involvement in the museum and heritage sector had come about because accessibility was a condition of Heritage Lottery Funding.<sup>76</sup>

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74 Julie Fleck ([DBE0083](#))

75 Q64

76 Mr Alan Morey ([DBE0133](#))

42. We asked the Minister for Housing and Planning whether the Government was considering requiring a higher standard of accessibility when public funds were being used for developments. He told us “that is not something that the Government are seeking to prescribe” and in his reply emphasised the existing building regulations as the means to achieve accessibility.<sup>77</sup> However, legal requirements on this already exist. The Public Procurement: Public Contracts Regulations 2015 provide that technical specifications for public procurement “intended for use by natural persons” are to be “drawn up so as to take into account accessibility criteria for disabled persons or design for all users.”<sup>78</sup> The arguments we have heard for accessibility criteria to be brought into public procurement suggest that, currently, this requirement may not always be being met.

**43. Reliance on the minimum standards of the building regulations is not sufficient to secure an inclusive built environment. We explore below concerns that these minimum standards are themselves out of date. Regardless of that, we should expect more of our public services than adherence to a minimum. The model of the 2012 Olympic**

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77 Q204

78 The Public Procurement: Public Contracts Regulations 2015, Regulation 42 (8), ([SI 2015/102](#))

and Paralympic Games shows what can be achieved when ambitions are set high, and British Standards provide a clear statement of what those ambitions should be.

*44. We recommend that the Government ensures, as a minimum, compliance with existing regulations by proactively setting out inclusive design and accessibility standards to be required of all publicly-funded works. In doing so it should use the most recent versions of BS8300 (Design of buildings and their approaches to meet the needs of disabled people), updating requirements as those standards change, and use its commissioning and procurement systems to ensure that appropriately high standards are adhered to.*

### ***Fiscal incentives***

45. Participants at our outreach event in Leeds produced an idea that we believe merits further exploration: the use of VAT exemptions to incentivise employers and service providers to improve the accessibility of their premises. It was noted that local authorities waive planning and building control fees on works to or within buildings open to the public, where the work improves

access for disabled people.<sup>79</sup> While this was welcome, it does not apply to many workplaces and in reality the financial benefit is fairly low.

46. The possibility of a waiver of VAT on relevant building works was suggested by participants as potentially a much more powerful incentive, particularly for employers renovating office premises.<sup>80</sup> For example, a company that decides to upgrade the toilets when refurbishing an existing office block could apply for a VAT exemption on the work to its sanitary facilities, or a restaurant could be encouraged to install step-free access rather than use a temporary ramp, by applying a tax exemption to the building work that would require.

47. This approach would also have the advantage of applying to works which are not caught by Part M of the Building Regulations because they are adaptations rather than new builds or material alterations.<sup>81</sup>

**48. *We recommend that the Government undertake a review into the possibility of using tax exemptions, and specifically VAT exemptions, for the installation of specific***

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79 Annex 1: Note of Committee Outreach Events

80 Annex 1: Note of Committee Outreach Events

81 See further below, Chapter 5

***physical features that improve accessibility to incentivise building works which improve access for disabled people to, from and within buildings and facilities.***

### ***Buildings where public services are delivered***

49. A concerning theme in the evidence that we have received is that often disabled people found the buildings they rely on for access to public services to be inaccessible. Inclusion London told us about a law student forced to study at home because of a lift that was out of order for a year.<sup>82</sup> Public Toilets UK told us about hospitals which lacked fully accessible toilets,<sup>83</sup> and Unity Law about an Ear, Nose and Throat Department that repeatedly failed to install or maintain a functioning hearing loop.<sup>84</sup> Revolving doors and lack of step-free access were specifically cited as problematic features.<sup>85</sup>

50. The Scottish Disability Forum highlighted a need for information as well as physical access, and called for every public building to have a text guide explaining what its accessibility

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82 Inclusion London ([DBE0097](#))

83 Public Toilets UK ([DBE0033](#))

84 Unity Law ([DBE0160](#))

85 Alasdair Gordon Guest ([DBE0074](#)); Access Association ([DBE0057](#)); Inclusion London ([DBE0097](#))

features are and how they can be obtained or used.<sup>86</sup> Participants in our outreach events argued that there should be some form of 'kitemark' or 'Disability Access Certificate', for display both in the building and online. These certificates would set out information on the accessibility features of a building, so allowing disabled people to plan ahead. Leeds City Council was apparently already considering just such a 'kitemark' system and participants at the outreach event proposed a system whereby all public buildings "are audited on accessibility and the information is then publicly available".<sup>87</sup>

**51. We agree that the proposal for a kitemark or certificate setting out information on the access features of a public building is a good one, especially for buildings used by public bodies who should already be leading by example and demonstrating they actively consider, assess, and plan access and inclusion for disabled people. Those meeting their existing legal obligations will already be doing this, and greater transparency can act as a spur to others.**

**52. *Taking British Standard 8300 as the starting point, the Government should require public authorities to publish***

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86 Scottish Disability Equality Forum ([DBE0095](#))

87 Annex 1: Note of Committee Outreach Events

*information on the accessibility of buildings owned or used by them, along with information on how accessibility is managed and maintained.*

## 3 Designing for equality

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53. The planning system is a key means through which the quality of the built environment is regulated and ‘good design’ is generally recognised to be an important part of this. Mary Travers of the Planning Inspectorate explained:

Design is essential. It is part of good planning. At various policy levels, whether they are high-level policies in a strategic plan or more detailed design policies in a plan for a specific area that is going to undergo significant growth, the policies need to find the hooks and the triggers to ensure that those principles are carried through in the detailed design implications for the development.<sup>88</sup>

54. In this Chapter we explore how the planning system—from national-level requirements, to local planning policy, and, ultimately, decisions on individual developments—can better design for a more inclusive built environment that enables disabled people to take part in society on an equal basis.

## Inclusive design and the National Planning Policy Framework

55. The National Planning Policy Framework (NPPF) was described in 2012 as a key part of the Government's reforms to make the planning system less complex and easier to understand. Its introduction significantly reduced the volume of national policy on planning. The NPPF sets out the Government's planning policies for England, and how these were expected to be applied. The framework states that:

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.<sup>89</sup>

The NPPF defines 'inclusive design' as "designing the built environment, including buildings and their surrounding spaces, to ensure that they can be accessed and used by everyone."<sup>90</sup> The Planning Practice Guidance which sits under the NPPF sets this out in more detail.

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89 Department for Communities and Local Government, [National Planning Policy Framework](#) (March 2012), paragraph 57

90 Department for Communities and Local Government, [National Planning Policy Framework](#) (March 2012), Annex 2

### **Box 1: Planning Practice Guidance: Design**

Good design can help to create buildings and places that are for everyone. Planning can help break down unnecessary physical barriers and exclusions caused by the poor design of buildings and places.

Inclusive design acknowledges diversity and difference and is more likely to be achieved when it is considered at every stage of the development process, from inception to completion. However it is often mistakenly seen as a Building Regulations issue, to be addressed once planning permission has been granted, not at the planning application stage. [...] Thinking at the design stage about how the completed building will be occupied and managed can overcome many barriers experienced by some users. Too often the needs of users, including disabled people, older people and families with small children, are considered too late in the day.

Inclusive design should not only be specific to the building, but also include the setting of the building in the wider built environment, for example, the location of the building on the plot; the gradient of the plot; the relationship of adjoining buildings; and the transport infrastructure.<sup>91</sup>

The guidance goes on to identify the following 'issues to consider':

- proximity and links to public transport;
- parking spaces and setting down points in proximity to entrances;
- the positioning and visual contrast of street furniture and the design of approach routes to meet the needs of wheelchair users and people with visual impairments; and
- whether entrances to buildings are clearly identified, can be reached by a level or gently sloping approach and are well lit.<sup>92</sup>

Source: <https://www.gov.uk/guidance/design>

91 Department for Communities and Local Government, '[The importance of good design](#)', at para 012, (Accessed 20 April 2017)

92 Department for Communities and Local Government, '[The importance of good design](#)', at para 012, (Accessed 20 April 2017)

56. Sense argued that the design process was essential for achieving inclusivity, as it addresses elements such as lighting, acoustics and navigation.<sup>93</sup> Trudi Elliott of the Royal Town Planning Institute (RTPI) pointed out that good design helps everyone: “Your average member of the community wants places their elderly mother can use and wants to be able to push a pram. All these things are the same requirements as if we want to make a place inclusive.”<sup>94</sup>

57. In practice, however, the Design Council argued that “inclusivity is insufficiently considered in the early stages of development and design”<sup>95</sup> and that implementation of the standards on inclusive design is patchy.<sup>96</sup> Others told us that, while the concept of ‘good design’ is itself widely recognised within the planning system, accessibility was not always considered integral to that concept.<sup>97</sup>

58. When we asked RIBA, the Design Council, the National Register of Access Consultants and the Project Leader for BEPE

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93 Sense ([DBE0103](#))

94 Q72 (Trudi Elliott, RTPI)

95 Design Council ([DBE0125](#))

96 Design Council ([DBE0125](#))

97 Ann Skippers MRTPI, FHEA, FRSA, AoU, Director of Ann Skippers Planning ([DBE0080](#))

whether the criteria for design awards should include minimum accessibility criteria the answer was a resounding “yes”,<sup>98</sup> but Leicester Disabled People’s Access Group expressed frustration that public realm schemes that they see as ‘exclusive’ rather than ‘inclusive’ design seemed to be gaining such awards.<sup>99</sup>

### **Box 2: Design inequality in practice**

Stephen Ware gave evidence to us on behalf of RIBA, and gave us the following explanation of his experience, as a Deaf person, of design that was not inclusive. He said:

One of [the] things people are not aware of is about getting into buildings. Everything now is designed a lot with intercom buzzers. If you are deaf and you cannot speak, people do not understand you, sometimes, when you try to speak. How do I know when it is free? I have to press the buzzer, and I am holding on to the door. It is really quite difficult. People come down and they complain about why I have been pressing on the buzzer. They do not realise. [...] If there is a completely solid door, it is very difficult for me to see if I can get in.

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98 Q96

99 Leicester Disabled People’s Access Group ([DBE0066](#))

[...]In a big company, somebody might have a pager for when the fire alarm goes off. A deaf person who does not have a vibrating pager will not know. For example, an old person who has lost their hearing will not know that the fire alarm has gone off. [...] We need flashing lights above, so people can actually see what is happening.

We need good lighting design as well. If it is very dark, it is very difficult to watch somebody who is signing, for example, because there is no light on the interpreter. For example, with doors you need something like lights so that people know somebody is knocking. [...]

If we have mirrors, and there is somebody behind you, then you can see everybody around. That is very positive, to see everybody in the room. You can see a reflection when someone is coming.

Source: Q105

59. Steve Quartermain, Chief Planner in the Department for Communities and Local Government, argued that the problem was

## 54 Building for Equality: Disability and the Built Environment

not with the processes and systems, but with their application.<sup>100</sup> To some extent this is true, and we heard evidence of how built environment professionals did not always understand the “human aspect of how people use and interact with buildings”, viewing accessibility as “a compliance-based thing”.<sup>101</sup> However, we also heard evidence that many local authorities will not take action if they do not understand that they are required to do so. Councillor Izzi Seccombe, speaking for the Local Government Association, explained:

You have a huge demand on just getting the churn of [planning] applications through the system and dealing with all the legality around it. This nice-to-do extra is not statutory. How do you create an environment that is going to be sustainable for older people? Are you talking about wider pavements in these areas, because there are going to be more mobility scooters? Are you putting in bus stops at the bottom of a hill, rather than at the top of a hill? Are you talking about where the shops sit? Are you talking about walking

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100 Q57

101 Q90 (Simon Turton)

environments? These are all the things that make their lives worth living and keep them independent for longer. Those are nice-to-dos. They are not statutory.<sup>102</sup>

60. We asked the Minister for Housing and Planning if there was a risk that accessibility, and inclusive design, become 'nice-to-dos' when local authorities are under economic and other pressures. He argued that significant progress had been made, particularly in housing, and pointed to London and Peterborough as local authorities that were making "real progress".<sup>103</sup> He nevertheless acknowledged, again in the context of housing, that:

One of the things that we need to guard against is that in the urgent need to drive up quantity [...] we do not lose sight of quality in terms of design, the appearance and character of homes, but also accessibility and all of those issues.<sup>104</sup>

61. The Minister told us that he was "determined that we do not fall into that trap"<sup>105</sup> and that the Neighbourhood Planning Bill had been amended to "place a duty on the Secretary of State

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102 Q60

103 Q209

104 Q209

105 Q209

to produce guidance for local planning authorities on how their local plans should address housing needs arising from old age and disability.” This guidance is expected to be in place by the summer of 2017.<sup>106</sup>

62. While this is welcome, a duty to produce guidance is quite different to a requirement to do something, and even the guidance is restricted to housing—there have been no such improvements as regards the wider built environment. When we asked Councillor Seccombe whether there was a risk that local authorities may be breaching their public sector equality duty, she told us that “I do not think any local authority intentionally avoids its duties”, but acknowledged that the capacity issues facing local authorities made it “a significant issue”.<sup>107</sup> DCLG and the Planning Inspectorate were more positive: Steve Quartermain at the DCLG stated “it is a duty. It is the law”,<sup>108</sup> and Mary Travers of the Planning Inspectorate that “it has been very rare” that inspectors found evidence of a breach of the duty.<sup>109</sup> In stark

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106 Supplementary evidence (letter following oral ev) [DBE0192](#)

107 Q83

108 Q84

109 Q85

contrast, Sue Bott of Disability Rights UK was very clear that, in her view, local authorities were breaching the public sector equality duty in this area.<sup>110</sup>

63. Determining planning policy, and using it to make decisions, are also public functions. As such these functions are subject to the duty to make reasonable adjustments, including in anticipation of the needs of disabled people. A historic focus on service provision has meant that this is often not well known or understood, but it should not be ignored. There have been high-profile cases where this duty was found to have been breached by those exercising public functions, such as *ZH v Commissioner of Police for the Metropolis* (2013),<sup>111</sup> which concerned the failure of the police to adjust their standard emergency response procedures for people with Autism. Inclusive design is an important part of meeting this duty: the Code of Practice, using the example of service, has made it clear that:

Where there is a physical barrier, the service provider's aim should be to make its services accessible to

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110 Q15

111 *ZH v Commissioner of Police for the Metropolis*, [2013] [EWCA Civ 69](#)

disabled people and, in particular, to provide access to a service as close as it is reasonably possible to get to the standard normally offered to the public at large.<sup>112</sup>

We can see no reason why the same principle would not apply to the performance of public functions.

**64. The National Planning Policy Framework tells local authorities that inclusive design is important but does not make its legal status sufficiently clear, with the result that inclusive design is being treated as a ‘nice-to-do’ and not a statutory requirement. Even putting aside the significance of inclusive design to our future built environment, this leaves local authorities at risk of breaching their obligations to anticipate the need for reasonable adjustments and of failing in their public sector equality duty.**

***65. We recommend that the Government amend the National Planning Policy Framework and the National Planning Practice Guidance to incorporate a dedicated section on access for disabled people and inclusive design for local planning authorities and decision-takers. This***

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112 Equality and Human Rights Commission, [Services, Public functions and Associations: Code of Practice to the Equality Act 2010](#) (2011), para 7.57

*should provide details of the requirements on how local planning authorities should address these subjects in terms of planning and design of the built environment and public spaces as well as housing.*

## **The role of the Planning Inspectorate in Local Plans**

66.Improvements to the NPPF will only be effective if carried through into Local Plans. While guidance exists in the NPPF and the relevant planning practice guidance, the key means for assuring that this guidance is followed in practice is examination of those plans by the Planning Inspectorate. We were therefore concerned to hear from the Planning Inspectorate that many local authorities had not yet undertaken the kind of evidence-gathering that would enable them to amend their plans so that they are “fully in accordance with what one might expect from the NPPF and [Planning Policy Guidance].”<sup>113</sup> The RTPI reported that while many local plans did include policies covering access for disabled people, these were “not necessarily very prescriptive”

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113 Q78 (Mary Travers)

## 60 Building for Equality: Disability and the Built Environment

or were limited to requiring developments to “demonstrate that they have taken the needs of people with disabilities into account”.<sup>114</sup>

67. While the Inspectorate told us that consideration of the public sector equality duty was “fundamental” to their inspectors’ consideration of the soundness of Local Plans, the manager responsible for the agency’s role in examining plans, Mary Travers, told us:

I am not aware that an inspector has ever found an entire plan unsound because of an issue about inclusivity, access or place-shaping design that might discriminate against those who have special needs.<sup>115</sup>

Rather than refusing to approve a plan in these circumstances, Mary Travers said that the Inspectorate’s approach would be to work with the local authority, and in some cases it would be willing to accept policies outside of a plan as sufficient.<sup>116</sup>

68. While we understand the desire to work in a cooperative manner, we do not think that this approach gives sufficient weight to the importance of accessibility for disabled people.

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114 RTPI ([DBE0122](#))

115 Q87

116 Q87

**The Minister for Planning and Housing told us that “if plans are not consistent with national planning policy, inspectors should not be approving them.”<sup>117</sup> We agree.**

69. The evidence that we have received indicates that the Planning Inspectorate may have approved Local Plans that pay insufficient regard to the needs of disabled people, risking a breach of the anticipatory reasonable adjustments duty and the public sector equality duty. The Equality and Human Rights Commission has the power to investigate both such possible breaches: section 20 of the Equality Act 2006 provides that the Commission can carry out an investigation where it has evidence to suspect that an organisation has failed to meet its reasonable adjustment duties, and section 31 provides that it can assess the extent to which or the manner in which a person has complied with the public sector equality duty. Should it prove necessary, both of these measures can result in enforcement action.

**70. *We recommend that the Equality and Human Rights Commission undertake a formal investigation into and/or assessment of the compliance of the Planning Inspectorate with the Equality Act 2010.***

***71. We recommend that, while this work is ongoing, the Government direct the Planning Inspectorate to pay closer attention to ensuring, as the NPPF sets out, that plans are founded on an inclusive design approach, and specifically that no Local Plan documents are to be judged ‘sound’ without evidence that they address access for disabled people in terms of housing, public spaces and the wider built environment.***

## **Planning applications**

72. The consideration and approval of planning applications provides a further opportunity for good policies on inclusive design and accessibility to be put into practice. However, this was a further area in which witnesses raised concerns. Hull Access Improvement Group reported that, although the situation had improved since the group’s formation in 1981, the quality of developments varied depending on “the skills and priorities of the architect and the commitment of the developer and money available.”<sup>118</sup> Sue Bott, speaking for Disability Rights UK, told us of a new office block in central London that was not fully accessible.

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118 Hull Access Improvement Group ([DBE0173](#))

She felt that this was because “planners and employers tend not to think “actually, we might have disabled people working for us””.<sup>119</sup>

73. Leicester Disabled People’s Access Group were concerned that where inclusive design was considered, it was given little weight in planning applications and could be over-ridden by other considerations. They gave the example of a decision to turn a car park outside the library of a University into an open air space—removing existing blue badge parking and leaving people with mobility impairments with difficulties accessing the library.<sup>120</sup>

74. Councillor Douglas Johnson, a lawyer with expertise in disability and a local authority councillor with experience of ‘good practice’ developers, was concerned that the planning system “does not currently reward such developers when it does not provide an adequate check on less progressive ones.”<sup>121</sup> Steve Quartermain, the Government’s Chief Planner, acknowledged that accessibility was not always the highest priority:

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119 Q16

120 Leicester Disabled People’s Access Group ([DBE0066](#))

121 Councillor Douglas Johnson ([DBE0135](#))

In any decision a planning authority makes, they weigh up the balances of the merits of the whole scheme. Inevitably, authorities will sometimes find themselves making some trade-offs.<sup>122</sup>

**75. While it may be true that, in making planning decisions, trade-offs will be required, provision for accessibility and inclusion should not be discounted without serious consideration—not least because this is a requirement of the public sector equality duty and the anticipatory reasonable adjustment duty.**

***76. We recommend that the Government make clear in the revisions to the NPPF (recommended above) that planning consent should only be given where there is evidence that a proposal makes sufficient provision for accessibility and inclusion.***

77. We received a significant number of submissions expressing concern that the reason accessibility was at risk of being given insufficient weight in planning decisions was a loss of expertise within local authorities. This, it was argued, had happened partly as a result of the loss of the expertise brought by Access

Officers—specialists in access and inclusive design who often played an important part in advising decision makers and enabling the involvement of disabled people—as budgetary pressures led to a loss of such posts, and to reductions in the size of planning departments.<sup>123</sup> Where an Access Officer remained in post their local Access Group tended to view this as positive.<sup>124</sup> One former planning inspector told us that:

Access Officers were key to achieving many gains for disabled people by actively promoting inclusive access. Today, most Councils have deleted Access Officer posts on the basis that ‘inclusive access is now mainstreamed’. While that sounds positive, the reality is that local planning authorities have returned to the old way of doing things and inclusive access is an afterthought at best.<sup>125</sup>

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123 Chartered Institute of Logistics and Transport in the UK ([DBE0180](#)); Design Council ([DBE0125](#)); Inclusion London ([DBE0097](#)); BSI Committee B/559 ([DBE0084](#)); Vision 2020 UK ([DBE0075](#)); Centre for Accessible Environments ([DBE0102](#)); Bristol Disability Equality Forum ([DBE0078](#)); Access Association ([DBE0057](#)); Annex 1: Note of Committee Outreach Events (Leeds)

124 Hull Access Improvement Group ([DBE0173](#)); Sheffield Access Liaison Group ([DBE0099](#)); Leicester Disabled People’s Access Group ([DBE0066](#))

125 Mr Philip Barton ([DBE0050](#))

78. The Royal Town Planning Institute felt that “planners should and do consider the needs of all people in their day to day work”.<sup>126</sup> They were nevertheless concerned about the capacity of local government planning departments to deliver on all the demands being made of them, something that Chief Executive Trudi Elliot felt was the “biggest challenge” in the planning system.<sup>127</sup> She told us that “most planning authorities are kept going on the goodwill of their planning officers.”<sup>128</sup> The representative of the Local Government Association, Councillor Izzie Secombe, agreed, pointing to the high turnover of planning officers as a hindrance:

my experience as a local member is that you can see an application go in with one planning officer and come out the other end with a totally different one. If you are lucky, it is only one change.<sup>129</sup>

79. She felt that it was therefore “quite challenging” for officers to put into practice guidance and changing planning law.<sup>130</sup> In the White Paper *Fixing our Broken Housing Market*, published in February 2017, the Government recognised the importance

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126 RTPI ([DBE0122](#))

127 Q59

128 Q59

129 Q58

130 Q58

of “boosting local authority capacity and capability to deliver, improving the speed and quality with which planning cases are handled”. The Government made commitments to:

Take steps to secure the financial sustainability of planning departments; ensure that the planning system has the skilled professionals it needs to assess and make the tough decisions we expect; and provide targeted support to address areas of specialist weakness.<sup>131</sup>

**80. We share concerns that there has been a loss of expertise on inclusive design and access at local level over recent years. *The White Paper on housing offers an opportunity for the Government to work with local authorities on ensuring access to the specialist expertise necessary to support the creation of an accessible and inclusive built environment, and we fully expect it to take that opportunity.***

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131 Department for Communities and Local Government, [Fixing Our Broken Housing Market](#) (February 2017), para 2.14

## Training for built environment professionals

81. For inclusive design principles to be put into practice, it needs to be incorporated into the training of built environment specialists such as planners, designers, architects and building inspectors. The Design Council told us that, at present, inclusivity is not sufficiently built in to professional training:

It is overly viewed as a silo specialism, rather than as a core part of all built environment roles. Whilst this is true for designers and architects, it is especially true for roles that are not seen to have a remit for inclusivity. Key roles that are often overlooked include: building control and approved inspectors, planners, building services engineers, facilities managers, construction managers, contractors, design managers, engineers.<sup>132</sup>

82. This concern was shared by the College of Occupational Therapists' Specialist Section in Housing, who stated that "it is rather shocking that inclusive design is not integral from the outset" of professional training. From this omission they concluded that "providing barrier-free environments for disabled

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132 Design Council ([DBE0125](#))

and older people is not seen as important or attractive.”<sup>133</sup> The RNIB felt that “access needs have [...] failed to fully penetrate the contemporary urban design sphere”.<sup>134</sup> Leicester Disabled People’s Access Group suggested that failures in training had led to built environment professionals ‘adapting for disability’, rather than designing inclusively.<sup>135</sup>

83. The Government cited a number of initiatives designed to address this, chief among them the ‘construction industry action plan,’ led by professionals within the industry “to evaluate how inclusive design can be better integrated in industry practice.”<sup>136</sup> The Government had also supported the creation of the Built Environment Professionals Education Project (BEPE) and the development of CPD training by the Design Council.<sup>137</sup> The BEPE Project Board told us that continuation of this support would be “critical” over the next few years, as the work of both their

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133 College of Occupational Therapists Specialist Section in Housing  
([DBE0076](#))

134 RNIB ([DBE0110](#))

135 Leicester Disabled People’s Access Group ([DBE0066](#))

136 Department for Communities and Local Government ([DBE0124](#))

137 Department for Communities and Local Government ([DBE0124](#))

project and the Construction Industry Inclusive Environment Action Plan sought to change behaviours in “a fragmented and large industry”.<sup>138</sup>

**84. We welcome evidence of strong government support for initiatives to improve training and education of built environment professionals in inclusivity and accessibility. We also welcome the work being done by the Design Council to produce an online Inclusive Design CPD module for built environment professionals by Summer 2017. We recommend that the Government assist the Design Council in securing funding to deliver an online Inclusive Design CPD module.**

## 4 Housing

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85. Although no definitive figures are available, a wide range of organisations giving evidence to us reported a significant deficit in the availability of homes that met what they considered an acceptable standard of accessibility: these included disabled peoples organisations and local Access Groups,<sup>139</sup> the Design Council, the RTPI, RIBA, British Healthcare Trades Association and other professional bodies.<sup>140</sup> Habinteg, a charity and housing association specialising in accessible homes, told us that there are at least around 300,000 disabled adults whose housing need is unmet, and that this figure was likely to be an underestimate.<sup>141</sup> Age UK cited research from 2005–06 estimating that over 750,000 people aged 65 and over needed specially adapted accommodation because of a medical condition or

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139 Inclusion London ([DBE0097](#)); Hull Access Improvement Group ([DBE0173](#)); Bradford and District Strategic Disability Partnership ([DBE0139](#)); Gosport Access Group and Disability Forum ([DBE0117](#)); Muscular Dystrophy UK Trailblazers ([DBE0127](#)); Thomas Pocklington Trust ([DBE0123](#)); Later Life Ambitions ([DBE0108](#))

140 Access Association ([DBE0057](#)); British Standards Institution's (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#)); British Healthcare Trades Association ([DBE0113](#))

141 Habinteg ([DBE0100](#)) citing the English Homes Survey

## 72 Building for Equality: Disability and the Built Environment

disability, and of these, 145,000 reported living in homes that did not meet their needs. Age UK argued that those figures are now likely to be even higher.<sup>142</sup>

86. The Department for Communities and Local Government (DCLG) used data from the English Housing Survey, which measures the number of homes with the four 'visitability' features: level access to the entrance, a flush/level threshold, sufficiently wide doorsets and circulation space, and a toilet at entrance level. The Government reported that the overall proportion of new homes being built incorporating these four features had increased from 13 per cent before 2001 to 68 per cent since 2001.<sup>143</sup> The proportion of all homes having these basic features—that is, existing as well as new stock—was, however, just seven per cent in 2014.<sup>144</sup> Although this is an improvement from three per cent in 2007,<sup>145</sup> it still leaves 93 per cent of housing in England unvisitable by significant numbers of disabled people. One of our witnesses, Zara Todd, gave an example of what this can mean in practice. Seeking to rent a flat in Norfolk, she told us:

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142 Age UK ([DBE0156](#))

143 Department for Communities and Local Government ([DBE0124](#))

144 Department for Communities and Local Government, [English Housing Survey: Adaptations and Accessibility Report, 2014–15](#), p 2

145 Q108 (Bob Ledsome, DCLG)

I had to go to 22 letting agents to get two viewings, just to find a flat that did not have stairs to get into it. I now rent somewhere that is not accessible, but it was the best that I could do from 22 letting agents.<sup>146</sup>

87. This chapter will examine the contributions that can be made to the supply of accessible, and not just visitable, homes through general policy to increase housing supply.

## **Government policy on increasing the supply of housing**

88. Household projections for England forecast that an average of 210,000 new households will form in England each year between 2014 and 2039. Housing output has been increasing in recent years, but is still well short of the estimated 240–250,000 new homes needed to keep pace with household formation.<sup>147</sup>

89. The Government's ambition is to deliver one million new homes over the next five years. The Housing White Paper published by the Department for Communities and Local Government in

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146 Q11

147 Tackling the under-supply of housing in England, Briefing Paper [Number 07671](#), House of Commons Library, 19 January 2017

February 2017 is intended to deliver “radical lasting reform”, and addresses the whole house-building process, from identifying sites to getting homes “built quickly and sold on fair terms”.<sup>148</sup>

90. We accept that the primary focus of this work is on increasing the number of homes built; accessibility is moot, after all, if there is a lack of homes to apply the standard to. Nevertheless, the Minister for Housing and Planning gave a welcome acknowledgement that accessibility must be an element of the work to ‘fix’ the housing market:

If you are asking me, when I go into the House of Commons and answer questions, whether most of the questions are about that national housing crisis that we are facing and what we are going to do about it, yes. That is where the number one pressure on me is. However, it is very important, if you are doing my job, that in trying to solve that problem you do not lose sight of what is still a very important issue about how we ensure that our housing stock is accessible. In particular, not just, if you like, catching up with the

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148 Department for Communities and Local Government, [\*Fixing Our Broken Housing Market\*](#) (February 2017), Foreword by Secretary of State Rt Hon Sajid Javid MP

historic fact that we have not given proper priority to this issue in the past, but also recognising the nature of the demographic change that the country is undergoing and the fact that this is going to be a growing issue.<sup>149</sup>

91. The Minister told us that one of the proposals in the White Paper was to use the new power under the Neighbourhood Planning Bill to set out in guidance that “planning authorities should set clear policies using the Optional Building Regulations to bring forward an adequate supply of accessible housing to meet local needs”. He expected this guidance to be in place by summer 2017.<sup>150</sup>

**92. We welcome the Government’s acknowledgement that accessibility is an important element in ensuring that the country has adequate housing supply, and the expected new guidance on local policies for accessible housing. However, many local authorities already have their Local Plans in place, and may not recognise the need to review their housing policies.**

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149 Q213

150 Department for Communities and Local Government ([DBE0192](#))

**93. We recommend that, once the new guidance under the Neighbourhood Planning Bill is adopted, the Department for Communities and Local Government undertake an audit of local plans to identify those that do, or do not, meet that guidance. Where this audit reveals gaps in accessible housing policies, the Government must take action to press local authorities to amend their Local Plans in line with the new guidance as a matter of urgency.**

## **Improving supply through standards for new homes**

94. In March 2015 the Government announced a new approach to the setting of technical housing standards in England, and published a new set of streamlined national technical standards for what is required under planning processes.<sup>151</sup> These replaced many different sets of standards, including for accessible housing, that had developed inconsistently across the country.

95. The new standards relevant to accessible housing are set out in Approved Document M (Access to and use of buildings)

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151 Department of Communities and Local Government, '[Planning update March 2015](#)' (Accessed 20 April 2017)

Volume 1: Dwellings, in effect from 1 October 2015. Approved Document M introduced three categories of dwellings, set out in the following table:

Category	Description	Status	Previous standard
Category 1/ M4(1)	'Visitable' dwellings	Mandatory to all new-build dwellings	Unchanged since 2004
Category 2/M4(2)	Accessible and adaptable dwellings	Optional	Lifetime Homes standard (or a local variation)
Category 3/ M4(3)	Wheelchair user dwellings	Optional	Wheelchair housing design guide (or a local variation)

96. Category 1 is a standard of 'visitability', not accessibility. Approved Document M (volume 1) explains that "In the Secretary of State's view, requirement M4(1) will be met when a new dwelling makes reasonable provision for most people, including

## 78 Building for Equality: Disability and the Built Environment

wheelchair users, to approach and enter the dwelling and to access habitable rooms and sanitary facilities on the entrance storey". Specific features include level access between ground floor habitable rooms and the toilet, and wall-mounted switches and sockets outlets, in habitable rooms, that are "reasonably accessible to people who have reduced reach".<sup>152</sup>

97. Categories 2 and 3 are optional standards which apply only where a local authority, through its local planning policies, "has determined that higher standards can be justified on the basis of need and provided the viability of development is not compromised."<sup>153</sup> This is done through a local planning authority's Local Plan, which should set out the proportion of new dwellings in the area that are required to meet each of these higher standards. This is then applied to individual developments through planning applications. Once triggered by inclusion in a Local Plan, the optional standards have the same legal weight as any other element of the Building Regulations. DCLG cited research carried out for the review of housing standards published

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152 Department for Communities and Local Government, [Approved Document M: Access to and use of buildings, volume 1: dwellings](#) (March 2015)

153 Department for Communities and Local Government ([DBE0124](#))

in 2015 that predicted an increase in the proportion of homes built to the former 'Lifetime Homes' standard (Category 2 in the new scheme) from 31 per cent in 2015 to 45 per cent by 2024.<sup>154</sup>

98. We have considered three significant issues that arise in relation to these standards and their application as a means of ensuring an adequate supply of accessible homes: the limitations of standards that apply only to new build dwellings, whether the minimum standard is high enough, and constraints faced by local authorities when deciding whether to adopt optional higher standards.

### ***Limits of application***

99. The Department for Communities and Local Government told us in their written evidence that the Regulations and Approved Document M (also often referred to as 'Part M'):

set out one way in which new building work [...] in most common situations should make reasonable provision for accessibility.<sup>155</sup>

100. The British Standards Institution's Committee responsible for standards on access to buildings for disabled people were

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154 Department for Communities and Local Government ([DBE0124](#))

155 Department for Communities and Local Government ([DBE0124](#))

concerned that “the application of this Part of the Building Regulations is limited (via the statutory instrument) mainly to new build, some types of material change of use and where proposals represent a ‘worsening’ in terms of compliance.”<sup>156</sup>

Martin McConaghy of the Access Association explained that this meant that “there are whole areas of work where people think the building regulations would apply but they simply do not.” He cited an example of conversion of a mill building into 200 flats, to which Part M of the Building Regulations would not apply. He noted that this is a considerable problem when efforts are being made to re-use existing buildings for housing.<sup>157</sup>

Nick Rogers, Design Director at developers Taylor Wimpey, was also concerned that the differentiation between new build and conversions meant that there was not a “level playing field”.<sup>158</sup>

101. Bob Ledsome, Deputy Director of Building Regulations and Standards at DCLG, told the Committee that “historically, Part M has not applied to changes to use of dwellings”. The Government had chosen to maintain the status quo because of the “practicalities [...] in trying to adapt existing buildings to

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156 British Standards Institution’s (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#))

157 Q44

158 Q128

these standards.”<sup>159</sup> He gave the example of the requirements on staircase width, which he felt “just may not be possible with an existing building and an existing staircase, where the conversion wants to make use of the existing staircase.” He stated that, “if that staircase had to be taken out and replaced, it could throw the viability of that particular development into question.”<sup>160</sup>

102. Prior to the introduction of the new standards regime, local authorities were able to choose to apply accessibility standards to any ‘new dwelling’, including a conversion, and the Greater London Authority (GLA) had adopted a policy of doing so. This is no longer an option.<sup>161</sup> In their evidence to us, the GLA called for this flexibility to be restored.<sup>162</sup>

**103. While we recognise that some, small-scale, conversions of existing buildings to housing may not be able to meet the standards of Part M, we do not agree that this means none can. Significant developments are currently able to go ahead without any provision for accessible housing—not even the minimum ‘visitability’ standard. It is not beyond the ability of Government to**

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159 Q219

160 Q226

161 Q132 (Jennifer Peters)

162 Greater London Authority ([DBE0106](#))

**create, within the Building Regulations, a presumption that the relevant standards will apply unless there is good evidence to show that they cannot do so.**

104. ***We recommend that the limits of application of the Building Regulations applicable to Part M Vol. 1 be amended so that Part M and its optional requirements apply to all new dwellings—both new build and conversions.***

### ***Enabling local authorities to apply the standards***

105. As explained above, the higher standards are optional. Their use depends on a local authority not only wanting to apply them, but also being able to prove that there is a local need for accessible housing, and that applying the standards will not affect the viability of development. Andrew Gibson of Habinteg told us that this created a “patchwork across England in terms of whether they build or not and whether the standards are consistent.”<sup>163</sup> Bob Ledsome (DCLG) explained the Government’s position:

The Government took the view that it was right to have these as optional requirements because the local needs would differ, and it was right that local

authorities should have the opportunity to take their own decisions based on their circumstances and their housing needs. They need to do a housing needs assessment as part of their general planning policy development process anyway. Furthermore, they had to take account of viability issues as well, and therefore local authorities could determine how and to what extent they would wish to apply the higher optional standards rather than them just being applied in a blanket way across all development.<sup>164</sup>

106. Prior to the development of the 'optional' standards, the Greater London Authority had a policy of requiring all homes to meet the Lifetime Homes standard, equivalent to M4(2) of the Building Regulations, but they were now concerned that the process required to maintain this could be quite cumbersome. Jennifer Peters, Strategic Planning Manager at the GLA, explained:

we have to get together our evidence; the national planning policy guidance sets out what kind of evidence you need to bring together about why you need these standards. [...] we looked at the whole gamut of access needs, not just disabilities. Through

your life you need different levels of access and to make sure that homes are fit for purpose in the long term we felt that was necessary for all homes. We went through that process. We developed a needs evidence document, which we got consultants to do but as officers we contributed a lot to. [...] We then had to go through an examination in public defending our policy, and at that stage we had the Home Builders Federation there, challenging our approach and saying that they did not agree with our evidence of need and particularly talking about the impact on viability. Through the examination in public process, we managed to argue and were successful in keeping our policies and there is an inspector's report that sets out that in terms of evidence of need he felt that it was robust.<sup>165</sup>

107. Bradford and District Strategic Disability Partnership explained the process from the perspective of an access group: their local planning authority had completed the necessary study on need and viability, which had found a need for both category 2 and 3 properties. It also found that "10 per cent

wheelchair accessible (category 3) and 90 per cent adaptable (category 2) “did not significantly impact viability in most areas.”<sup>166</sup>

Nevertheless, more work was needed: their understanding was that the ‘core strategy’ as it existed would be adopted, followed by an amendment to insert the proposed housing policy, which itself would first be subject to an inquiry in public with the adoption of the policy dependent on the outcome of that inquiry and the report of the planning inspector. The Partnership noted that it would therefore be “some more years” before disabled residents of the area would begin to see housing being built to a consistent standard which they felt would meet the district’s needs. The requirements to demonstrate immediate need, they argued, were at odds with ensuring that “wherever people live or choose to live there should be real choice” in the housing and locations available to them.<sup>167</sup>

108. In contrast, the Home Builders Federation expressed concern that:

In practice [...] neither the assessment of evidence of the need for nor of the cost impact of the proposed application of the optional Part M standards on

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166 Bradford and District Strategic Disability Partnership ([DBE0139](#))

167 Bradford and District Strategic Disability Partnership ([DBE0139](#))

development viability have been considered with sufficient rigour in local plan examinations.<sup>168</sup>

This risked local plan policies “overproviding for the level of new homes built to higher accessibility standards compared to actual need”, as well as an underestimate of the impact on development viability. They felt that “few proposed local plan policies have been robustly tested in this policy area” and that this had been the case in London.<sup>169</sup>

**109. We agree that local authorities need to understand the housing needs of their local population, and welcome the Government’s changes to the Neighbourhood Planning Bill that seek to ensure that this happens. However, we do not see why a local authority should be required to prove such need if it wants to prevent inaccessible housing from being built. Even in the unlikely event that, currently, few residents need accessible homes the reality is that this will change—whether through disabled people being born or moving into the area, or existing residents acquiring disability through illness, accident or the natural ageing process.**

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168 Home Builders Federation ([DBE0111](#))

169 Home Builders Federation ([DBE0111](#))

110. **Wherever people live or choose to live in the future, there should be real choice in the housing available to them. For this to happen we need to ‘future-proof’ our housing policy by changing the starting point: rather than requiring a local authority to prove that there is a current need to be met, we should start from the assumption that there is such a need.**

111. ***The Government should remove the requirement on local authorities to prove an immediate need for accessible housing when applying optional access standards to proposed housing within their area. Developers should be able to obtain exemptions from these standards only in specific cases where they can bring forward evidence that such a need does not exist.***

### ***The appropriate minimum standard?***

112. While removing the requirement to prove need would go some way towards addressing the shortfall in accessible housing, many organisations made the argument that the minimum requirement should also be raised. Age UK, Habinteg, the Access Association, City of Nottingham’s Disability Involvement Group, the Thomas Pocklington Trust and Later Life Ambitions

all proposed that M4(2) be made the new minimum standard.<sup>170</sup>

The decision taken by the Greater London Authority to, in effect, do this was widely praised in submissions.<sup>171</sup>

113. While the Home Builders Federation felt that the current policy position “represents a fair balance between the various considerations involved”<sup>172</sup> the mandatory level, M4(1), was felt by many to be insufficient to meet today’s housing needs. The standard was designed to enable a wheelchair user to visit a property, yet Andrew Gibson of Habinteg, himself a wheelchair user, told the Committee of his experience with this standard of ‘visitability’:

What it means to me practically [...] is I can get in the front door, probably move around downstairs and I might or might not be able to use the toilet. [...] Yes,

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170 Age UK ([DBE0156](#)); Habinteg ([DBE0100](#)); the Access Association ([DBE0057](#)); City of Nottingham’s Disability Involvement Group ([DBE0142](#)); the Thomas Pocklington Trust ([DBE0123](#)); Later Life Ambitions ([DBE0108](#))

171 British Standards Institution’s (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#)); College of Occupational Therapy Specialist Section in Housing ([DBE0076](#)); Access Association ([DBE0057](#)); Later Life Ambitions ([DBE0108](#))

172 Home Builders Federation ([DBE0111](#))

it is visitable but it means you probably cannot stay there. You probably cannot use the facilities. If you are there for a party you leave after an hour.<sup>173</sup>

114. Age UK argued that the higher standards of M4(2) were necessary to meet the needs of an ageing population.<sup>174</sup> Habinteg suggested that making this the mandatory minimum would reduce costs associated with care needs.<sup>175</sup> Inclusion London said it would like to see all new social housing built to this standard or higher,<sup>176</sup> and Sheffield Access Liaison Group pointed to a successful application of the M4(2) standards in Sheffield, arguing for them to be adopted by other cities.<sup>177</sup> Vaila Morrison, an architect and a carer of a disabled child, suggested that Category 2 and 3 should become the standard for all multi-home developments, including homes for sale and social rent, with Category 1 being reserved only for self-build and individual householders.<sup>178</sup>

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173 Q118

174 Age UK ([DBE0156](#))

175 Habinteg ([DBE0100](#))

176 Inclusion London ([DBE0097](#))

177 Sheffield Access Liaison Group ([DBE0099](#))

178 Vaila Morrison ([DBE0085](#))

115. The Government expressed concern that raising the minimum standards could affect the viability of developments.

Bob Ledsome argued that:

We have to accept that M4(2) and M4(3) have higher costs and that can impact on the viability of development. It may well be that for local authorities in other areas where there is lower land-values as opposed to London, which is much more easily able to absorb increased costs for design standards, etc, it is perfectly legitimate to take the judgment that, “In this case, we may not be able to apply M4(2) or M4(3) to the extent that it has been done in London.” That is absolutely the role of the local authority, the planning authority, to be able to do that.<sup>179</sup>

116. However, as Andrew Gibson of Habinteg pointed out, some other local authorities outside London have adopted M4(2) as their minimum standard. He told us that Leicester and Reading had already done so, and Liverpool, Brighton and Newcastle were actively considering it.<sup>180</sup>

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179 Q124

180 Q125

117. Habinteg also queried the Government's estimates of the number of local authorities that had concrete plans to build more accessible homes: evidence from the Government estimated that in 2012–13, 76 per cent of local authorities had policies on the Lifetime Homes standard (now M4(2)), with 42 per cent having a policy requiring compliance of all or some housing developments with these standards.<sup>181</sup> In contrast, research by Habinteg in 2016 found that only 8.2 per cent of councils had what they considered to be "robust accessible housing plans".<sup>182</sup>

118. The cost of compliance with M4(2) was the primary concern for those who felt the current minimum was sufficient. The Home Builders Federation (HBF) argued that:

if the balance is struck in the wrong place there will be consequences for other planning policy objectives in local plans and for overall housing affordability and supply.<sup>183</sup>

HBF cited evidence that estimated the cost of building to M4(2) as being "up to about £1,500 per dwelling". It argued that "if a high percentage of Category 2 dwellings is sought in a local plan

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181 Department for Communities and Local Government ([DBE0124](#))

182 Habinteg ([DBE0100](#))

183 Home Builders Federation ([DBE0111](#))

policy, this may [...] have a not insignificant bearing on project viability, particularly in lower value market areas” and that “the onus should be on thorough and robust policy examination to ensure the balance of interests and requirements served by the provision of new development is fairly and appropriately struck overall.”<sup>184</sup>

119. The following table sets out the estimates used by the Department for Communities and Local Government in the Housing Standards Review in 2014.

Table 1: Access costs summary

	1B Apartment	2B Apartment	2B Terrace	3B Semi- detached	4B Detached
Cost all dwellings (extra over current industry practice)					
Category 1	–	–	–	–	–
Category 2	£940	£907	£523	£521	£520
Category 3 (Adaptable)	£7,607	£7,891	£9,754	£10,307	£10,568
Category 3 (Accessible)	£7,764	£8,048	£22,238	£22,791	£23,052

Source: DCLG, Housing Standards Review: Cost impacts, September 2014 at p. 38<sup>185</sup>

This reflects evidence given by Habinteg that the additional cost of building to Category 2/M4(2) standards was only around £512 for a three-bed house.<sup>186</sup> However, with the cost of the extra space required to meet M4(2) included, the estimated cost could indeed rise to just below £1,500.<sup>187</sup>

120. Nevertheless, when asked about the proposal to use category 2 (M4(2)) as the minimum standard, Nick Rogers, speaking for the major developer Taylor Wimpey, acknowledged that while there would be a short-term impact on developers if standards were raised quickly, this would not necessarily last:

Five years down the line, we are all on a level-playing field. We are all buying land based on the new standards and it perhaps is not so much of a problem. It is transitions. Fifteen years ago, housebuilders were shocked that they had to put toilets downstairs in two-bedroom houses.<sup>188</sup>

While there were commercial considerations, for Mr Rogers these were more about ensuring a level playing field with competitors

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186 Q125 (Andrew Gibson)

187 Department for Communities and Local Government, [Housing Standards Review: Cost Impacts](#) (September 2014), table 1

188 Q144

than the additional costs of building to the higher standards. He also told us that “it helps us when local authorities are clear and say, ‘This is the standard. We need to achieve it here.’”<sup>189</sup>

**121. The evidence to us is clear that the minimum standard set in Approved Document M4(1) is simply too low to meet the needs of the population, and should be retained only for those properties where the higher standards would demonstrably make development unviable. While we recognise that there are additional costs involved, those resulting from meeting M4(2) make up only a fraction of the cost of building a new home.**

***122. We recommend that the Government amend the default minimum baseline standard for all new homes under Part M of the Building Regulations (vol. 1) to Category 2 (M4(2)). We accept that there may be a need for exceptions to this policy, but the minimum of ‘vistability’ under M4(1) should only be available where an applicant for planning permission can prove that it would not be feasible to meet the new minimum standard.***

## 5 Public buildings and places

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123. While housing, perhaps unsurprisingly, was a dominant concern among witnesses, so too was the accessibility of the wider built environment. People wanted to be able to access shops, pubs, clubs, theatres, cinemas and public services on an equal basis.<sup>190</sup> Our witnesses wanted to be able to apply for jobs without wondering if they will be able to get into their workplace; Zara Todd of Inclusion London told how she turned up for a job interview but not been able to get into the building it was being held in—despite having alerted the organisation, in advance, that she was a wheelchair user. Another employer, having interviewed her and found her to be the best candidate, then “ended up having to rent a desk for [her] in a shared office space a good walk from the main building”.<sup>191</sup>

124. There are many factors that affect this, but within the terms of this inquiry two stood out: firstly, the extent to which building regulations reflect the expectations of a modern society in terms of such access, including not just buildings but external environments; and secondly, how the requirements of the

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<sup>190</sup> See above, Chapter 1

<sup>191</sup> Q16

Equality Act—which may require physical features of buildings that go beyond the minimum of the building regulations—can be made more effective.

## Building Regulations for buildings other than dwellings

125. The accessibility of buildings other than dwellings, including commercial buildings and workplaces, is governed by Part M (Access to and Use of Buildings) of the Building Regulations, which dates back to 2004. These provide that reasonable provision must be made for people to access and use the building and its facilities and applies to new-buildings and some, but not all, material changes of use. Unlike for housing, there are no ‘optional’ higher standards. The details of what the Government considers ‘reasonable’ provision is set out in Approved Document M: Volume 2. It sets out, for example, requirements for accessible entrances, doors, reception areas, corridors and passageways, for passenger lifts, wheelchair spaces and the provision of toilets and other sanitary facilities.<sup>192</sup>

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192 Department for Communities and Local Government, [\*Approved Document M: Access to and use of buildings, volume 2: buildings other than dwellings\*](#) (2015)

126. The Department for Communities and Local Government explained that the regulations were largely based on guidance developed in British Standards BS8300 (Design of buildings and their approaches to meet the needs of disabled people).<sup>193</sup> BS8300 itself dates back to 2001, and was developed in anticipation of the coming into effect in October 2004 of Part 3 of the then Disability Discrimination Act 1995, which imposed a duty on suppliers of goods and services to “make their offerings accessible to disabled people”.<sup>194</sup>

127. The standards on which the Building Regulations are based are now well over a decade old, so it is perhaps unsurprising that witnesses felt that they were in need of an urgent update. David Petherick, Chair of the British Standards Committee which develops standards on access to the built environment, pointed out that BS8300 had been updated three times since the Guidance had been produced, and that there was “a whole lot more in BS 8300” that was “not even touched by approved document M”.<sup>195</sup> This matters because while the details of the approved document have a legal status, the British Standards represent industry best

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193 Department for Communities and Local Government ([DBE0124](#))

194 British Standards Institution’s (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#))

195 Q45 (David Petherick)

practice—so there is no obligation to follow them. The Access Association also told us that the more recent version of BS8300 was “a far more comprehensive standard” that “covers a wider range of needs.” A particular concern was that the ergonomic data on wheelchairs that underpinned Part M dated back to 1997. Given the rate of technological advancement, this meant that “the basic ergonomics of space planning” needed to be updated.<sup>196</sup>

128. The Access Association expressed concern that Part M did not reflect current best practice on inclusivity, arguing that:

it is possible to design and develop in accordance with the design guidance found in the Approved Document and still create a building which is not inclusive, which (for example) segregates people according to those who require level access and those who do not, and those who can use revolving doors and those who cannot.<sup>197</sup>

129. We heard that the current standard was “very light” on features for disabled people who are not wheelchair users,<sup>198</sup> a

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196 Q45 (Martin McConaghy)

197 Access Association ([DBE0057](#))

198 Q45 (Martin McConaghy)

## 100 Building for Equality: Disability and the Built Environment

concern shared by many witnesses who spoke particularly of the need to reflect the needs of neuro-diverse people,<sup>199</sup> people with restricted growth syndrome,<sup>200</sup> people with dementia,<sup>201</sup> people with learning disabilities,<sup>202</sup> and people with sensory impairments.<sup>203</sup> The Mental Health Foundation told us that it was concerned that the design and construction of built environments was not keeping pace with the “evolving and complex” requirements of the UK population because “as people change, demands from our built environment do too, and this needs to be factored in when adaptations to the built environment are being made to ensure inclusion.” The Foundation gave some practical examples of the kind of changes that would improve accessibility for people with dementia: carpets without patterns, long mirrors along corridors and replacing signs that make it difficult to differentiate between male and female toilets.<sup>204</sup>

130. The Minister for Housing and Planning acknowledged these concerns when he gave evidence to us:

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199 London Autistic Rights Movement ([DBE0130](#))

200 Liverpool Hope University ([DBE0014](#))

201 Chartered Institute of Building ([DBE0120](#))

202 Bradford and District Strategic Disability Partnership ([DBE0139](#))

203 RNIB ([DBE0110](#)); Sense ([DBE0103](#))

204 Mental Health Foundation ([DBE0094](#))

it is 2004 since the regulations in respect of buildings that are not dwellings was looked at. You can take it from the fact that we have commissioned research there that we are aware that there may well be issues that we wish to address.<sup>205</sup>

Bob Ledsome gave some indication of what these might be: as examples, he cited Changing Places toilets (an issue we consider below) and the ability of people with visual or hearing impairments to navigate around buildings.<sup>206</sup>

131. Another reason why having up to date standards is important is that the Equality Act 2010 contains an exemption whereby if a particular feature of a building complies with the standards laid down in Part M, then—for the next ten years—it is exempt from the requirement under the reasonable adjustment duties to remove or alter that physical feature.<sup>207</sup> While narrower than many believe<sup>208</sup> this does mean that physical features constructed today in compliance with the current building regulations are likely to remain at the 2001 standard until 2027.

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205 Q228

206 Q229

207 Equality Act 2010 (Disability) Regulations 2010, Regulation 9 ([SI 2010/2128](#))

208 Q50 (Chris Fry; David Petherick)

## 102 Building for Equality: Disability and the Built Environment

132. Given this and the history of Part M, it is unsurprising that many also called for that update to be in line with the most recent British Standards.<sup>209</sup> Bob Ledsome, when asked if this was the Government's intention, replied that "it is something that we would expect to look at."<sup>210</sup>

133. As Mr Ledsome also acknowledged, the relevant British Standards themselves will soon be updated:<sup>211</sup> the British Standards Institution is drafting an update to the existing BS8300 to produce two Codes of Practice, one on buildings and one on external environments.<sup>212</sup> Added to this, BSI Committee B/559 told us that the BSI was working on a Publicly Available Specification (PAS) on "Design for the Mind", with the longer-term aim of producing a standard "covering accessibility issues for people with the gamut of neuro-diverse issues ranging from dyslexia to dementia."<sup>213</sup> This work will provide the Government with an up-to-date industry standard.

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209 Centre for Accessible Environments ([DBE0102](#)); Access Association ([DBE0057](#))

210 Q230

211 Q231

212 BSI, '[B/559 – Access to buildings for disabled people](#)' (Accessed 20 April 2017)

213 BSI Committee B/559 ([DBE0084](#))

134. ***Approved Document M of the Building Regulations (Volume 2) (buildings other than dwellings) should be updated to ensure it is still relevant and adequately addresses access for disabled people today, adopting an inclusive design, pan-impairment approach. The starting point for this should be guidance in the emerging British Standards on the subject, with the aim of 'levelling up' Approved Document M guidance as new standards are developed.***

## **Changing Places toilets**

135. One area where witnesses argued most strongly for an urgent update to the Building Regulations concerned the provision of 'Changing Places' toilets. These are toilets that are designed for assisted use, are larger than a standard accessible toilet and include equipment such as a hoist, height-adjustable basin, and an adult-sized changing table. While a reference to Changing Places toilets has been added to the guidance associated with Part M, it simply states that such provision is 'desirable' in 'large building developments'.

## 104 Building for Equality: Disability and the Built Environment

136. Rachel George, parent of a ten year old boy with complex disabilities, told us that the lack of appropriate toilet facilities significantly limited his life and that of his family. She told us that:

he does not feel welcome in the world. He asks every day why places don't have a toilet he can use. He cannot have whole days out. So neither does our family.<sup>214</sup>

137. Lorna Fillingham, a campaigner for Changing Places toilet provision and the parent of a child who has profound and multiple learning disabilities, pointed out that "you cannot opt out of whether you need the toilet or not, it's a basic bodily function." As such, the lack of Changing Places facilities often meant that:

disabled people are being changed on public toilet floors, or in the back of a car, either that or they are having to sit in their own body waste for prolonged periods of time. The last option is that the person avoids going out altogether or self medicates to avoid toilet use when out and about.<sup>215</sup>

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214 Mrs Rachel George ([DBE0062](#))

215 Lorna Fillingham ([DBE0052](#))

Ms Fillingham argued strongly that:

Everybody in this country has the right to be free from degrading treatment and to be kept safe from harm. It is time those with responsibility make sure that this right is upheld. Make Changing Places toilet facilities compulsory under Part M of the Building Regulations. It is a moral obligation. It should NOT be left to chance or a businesses whim to decide whether they are included or not.<sup>216</sup>

138. This view was echoed by many others.<sup>217</sup> Vaila Morrison, a chartered architect and the parent of a disabled child, asked:

why (when there are rules about the number of standard toilets, the number of car parking spaces etc.) would there be no compulsion to ensure the most vulnerable children and adults could actually access a toilet in buildings where everyone else can?<sup>218</sup>

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216 Lorna Fillingham ([DBE0052](#))

217 Independent Lives ([DBE0101](#)); Mental Health Foundation ([DBE0094](#));  
Around the Toilet ([DBE0087](#)); Mr Philip Barton ([DBE0050](#)); London  
Autistic Rights Movement ([DBE0130](#))

218 Vaila Morrison ([DBE0085](#))

139. The Government told us that, at the time the Minister for Housing and Planning gave evidence to us, there were 918 Changing Places toilets in the UK.<sup>219</sup> The Minister related that the Government had “worked very closely with Mencap, the British Toilet Association and with the Changing Places campaign” and a website had been developed to help people find the nearest Changing Places toilet “quickly and easily”.<sup>220</sup> He expressed concern that an approach to increasing provision that relied solely on building regulations would not catch existing infrastructure, in particular rail stations, airports and ports which are outside the scope of the building regulations. He nevertheless told us that the Government is “certainly going to consider whether [Changing Places toilets] should be required in larger public buildings.”<sup>221</sup>

140. With reference to provision in transport infrastructure. Andrew Jones MP, Parliamentary Under-Secretary of State for Transport told us that Changing Places toilets are required for ‘category A’ rail stations, that is, the 28 stations across the

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219 Q234

220 Q234

221 Q234

network where there are more than two million entrances or exits each year.<sup>222</sup> When asked if he felt that was sufficient, the Minister replied:

We have a railway infrastructure that is essentially Victorian and all Governments of all colours have been upgrading it gradually ever since. Can we go further and faster? We are doing this. Can we do better? Yes, of course I want to make our stations and the trains and everything else much more friendly. It is almost impossible to answer your question, really. Are Changing Places toilets good? Yes, they provide a particular need, and I know that the Rail Minister is meeting the Changing Places Foundation in a few weeks' time. We know that they are built into the planning for the most high-volume stations. We have accessible toilets in other areas of our transport network, but of course we are seeking to go further.<sup>223</sup>

141. While we appreciate that provision appears to be increasing, the figure of 918 Changing Places toilets nationally still only equates to one for every 70,925 people, or one toilet every 270

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222 Q231

223 Q232

km<sup>2</sup>. This is assuming that they are spread equally across the country. In reality, numbers are concentrated in London and the South East<sup>224</sup>—which have the lowest rates of disability in the UK.<sup>225</sup> Given the significance of the impact on disabled people's dignity and ability to take part in society, we do not think that is good enough and agree with our witnesses that this should be a higher priority. The Parliamentary Under-Secretary of State for Transport told us that his Department is working on an action plan on the accessibility of public transport, and this strikes us an excellent place to start.<sup>226</sup>

142. ***We recommend that the update to the requirements of Part M Vol. 2's approved document include a requirement to provide a Changing Places toilet in all large building developments which are open to the public, unless it can be demonstrated that adequate provision is already in place locally. This will require DCLG to undertake an assessment of what is reasonable to define as a 'large'***

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224 Changing Places, '[Changing Places Toilet Map](#)' (Accessed 20 April 2017)

225 Papworth Trust, [Disability in the United Kingdom 2016: Facts and Figures](#) (2016)

226 Q191 (Andrew Jones)

*development for these purposes—but we expect that as a minimum the requirement will apply to, for example, large shopping centres.*

143. *We further recommend that the action plan on the accessibility of public transport, currently being developed by the Department for Transport, include action to improve the availability of accessible and Changing Places toilets in transport infrastructure.*

## **The requirements of the Equality Act and enforcement of those requirements**

144. Despite the limited exemption for physical features of buildings that comply with the approved document on Part M, the Equality Act 2010 contains important obligations: not least on employers who, in any case, cannot take advantage of the exemption. As the Approved document explains:

Although the guidance in this approved document, if followed, tends to demonstrate compliance with Part M of the Building Regulations, this does not necessarily equate to compliance with the obligations and duties set out in the Equality Act. This is because

## 110 Building for Equality: Disability and the Built Environment

service providers and employers are required by the Equality Act to make reasonable adjustments to any physical feature which might put a disabled person at a substantial disadvantage compared to a non-disabled person. In some instances this will include designing features or making reasonable adjustments to features which are outside the scope of Approved Document M.<sup>227</sup>

145. The College of Occupational Therapy Specialist Section in Housing similarly pointed out that even buildings designed to be accessible can become inaccessible if not maintained and managed effectively.<sup>228</sup> As Chris Fry, managing partner of Unity Law, explained, the building regulations represent minimum requirements but the Equality Act “is not minimalist in its purpose”. He gave the example of a building in compliance with building regulations because it is equipped with the required

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227 Department for Communities and Local Government, [\*Approved Document M: Access to and use of buildings, volume 2: buildings other than dwellings\*](#) (2015), p6

228 College of Occupational Therapy Specialist Section in Housing ([DBE0076](#))

accessible toilet, but the occupier uses that toilet as a storage cupboard—in which case they would be in breach of the Equality Act.<sup>229</sup>

146. A key provision in this context is the anticipatory reasonable adjustment duty under that Act. This requires, among others, service providers, educational institutions, transport providers, public bodies and those performing public functions, to “take such steps as it is reasonable to have to take” to avoid putting disabled people at “a substantial disadvantage”.<sup>230</sup> Failure to comply with this duty is a form of discrimination. This is perhaps the clearest expression of the reality—recognised by the social model of disability—that changes to the environment, as well as attitudinal and behavioural changes, are needed if disabled people are to participate in society on an equal basis with dignity and respect.

147. Unfortunately, evidence presented to the House of Lords Committee on the Equality Act and Disability indicated clearly that the reasonable adjustment duty was often not respected

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229 Q48

230 Equality Act 2010, [section 20](#)

## 112 Building for Equality: Disability and the Built Environment

in practice.<sup>231</sup> We heard similar evidence: Gosport Access Group and Disability Forum felt that it was difficult to enforce compliance with accessibility standards retrospectively and that the Equality Act does not make it easy for customers to make formal complaints, with the result that “the vast majority” are deterred from doing so.<sup>232</sup> Doug Paulley, who describes himself as being “known for using the Equality Act to challenge and change disabling provision” and who gave evidence to the House of Lords Committee, told us that the enforcement mechanisms for disabled people’s access to the built environment are “fundamentally broken” and suffer from “systemic barriers”.<sup>233</sup> Martin McConaghy of the Access Association explained how this situation had changed over the years:

in the early 2000s, as people were preparing for the implementation of the physical adjustment duties of the Disability Discrimination Act, we saw a lot of engagement from businesses and authorities. Lots of people were putting in quite a lot of effort, because

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231 House of Lords Committee on the Equality Act 2010 and Disability, Report of Session 2015–16, [The Equality Act 2010: the impact on disabled people](#) HL Paper 17, Chapter 5

232 Gosport Access Group and Disability Forum ([DBE0117](#))

233 Doug Paulley ([DBE0186](#))

there was this unknown risk coming in the form of legislation and civil rights. A lot of organisations have wound down their efforts and have not continued that effort since 2004. [...] many disabled people do not exercise their rights, so the risk [to businesses] has not come to fruition in the scale it could have.<sup>234</sup>

148. The most common proposal to increase the incentive on business to comply with their legal obligations, and to shift the burden of enforcement away from disabled people, was to amend the Licensing Act 2003 to require the reasonable provision of a basic level of accessibility in licensed premises—which include the vast majority of premises that provide entertainment, sell alcohol or provide food late in the evening. This proposal originated in evidence from a representative of the National Association for Licensing and Enforcement Officers (NALEO) to the House of Lords Committee on the Equality Act and Disability. The Committee recommended that the Licensing Act 2003 be amended to make a failure to comply with the Equality Act 2010 a ground for refusal of a license. The report argued that doing so would:

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234 Q29 (Martin McConaghy)

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allow the burden of enforcing that legislation to shift from disabled people to local authorities, many of which are keen to assume that responsibility. Businesses which comply with the Equality Act have nothing to fear.<sup>235</sup>

149. Supporters of this proposal included the Centre for Accessible Environments, British Standards Institution's (BSI) Committee B/559 on Access to buildings for disabled people, Ms Julie Fleck (an expert on access for disabled people) and the Access Association.<sup>236</sup> Bradford and District Strategic Disability Partnership gave a positive example of what could be achieved if local authorities were enabled to do so:

In 1993 a local access group carried out a survey and found that only three public houses in the district were accessible. This resulted in a multi-agency approach working with the trade, the local licensing authority and disabled people who developed a number of

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235 House of Lords Committee on the Equality Act 2010 and Disability, Report of Session 2015–16, [The Equality Act 2010: the impact on disabled people](#) HL Paper 17, para 472

236 British Standards Institution's (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#)); Centre for Accessible Environments ([DBE0102](#)); Ms Julie Fleck ([DBE0083](#)); Access Association ([DBE0057](#))

licensing conditions which had a major positive effect on accessibility of licensed premises. The licensing rules then changed and this (most effective tool) was no longer available. Bring it back!<sup>237</sup>

150. The Government, however, rejected this recommendation on the basis that it believed it would lead the Licensing Act 2003 to “duplicate” provisions in the Equality Act. Baroness Deech, the former Chair of the Equality Act 2010 and Disability Committee, along with a number of other former Members of that Committee, sought to amend the Licensing Act through the Policing and Crime Bill (now Act) when it passed through the House of Lords in 2016. Baroness Deech explained that:

With this amendment, licensing authorities could require, for example, old and existing buildings to be made accessible. When they are out inspecting and find disabled facilities not being provided as they should be, they could review the licence. They could issue a warning or, in the last resort, remove a licence [...]. At the moment, the licensing authority can only remind owners of premises of their duties under the Equality Act, and they have no teeth. Where the

situation is not remedied, this amendment would shift the enforcement burden away from the individual disabled person or the person discriminated against—who, under existing law, have to take legal action on their own—to the local authority.<sup>238</sup>

151. An alternative suggestion was made by the House of Lords Select Committee on the Licensing Act 2003, which reported in April 2017.<sup>239</sup> That Committee agreed with the Government that there was a risk of “stretching” the Act to become a mechanism for general enforcement of legislation which applies to licensed premises.<sup>240</sup> The Committee did, however, point to an alternative means of achieving the same goal of ensuring that licensees comply with the law on disabled access. It noted that the Licensing (Scotland) Act 2005 sets out a list of the documents which must accompany an application for a premises licence,

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238 HL Deb, 9 November 2016, [col 1202 \[Lords Chamber\]](#)

239 House of Lords Select Committee on the Licensing Act 2003, Report of Session 2016–17, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146

240 House of Lords Select Committee on the Licensing Act 2003, Report of Session 2016–17, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146, para 271

and that the Criminal Justice and Licensing (Scotland) Act 2010 added to that list “a disabled access and facilities statement”. Without such a statement, an application would be incomplete.<sup>241</sup>

152. The relevant section of the 2010 Act has not yet been brought into force in Scotland. The Committee nevertheless recommended that the law in England and Wales be amended along similar lines, to require that an application for a premises licence should be accompanied by a disabled access and facilities statement. It argued that:

The provision by licensees of disabled access facilities does not impose on them a new obligation or financial burden, since this is no more than what they are already required to do by law. This requirement is a simple way of enforcing the law and ensuring that licensees comply with it.<sup>242</sup>

**153. Our evidence supports the view of the House of Lords Committee on the Equality Act 2010 and Disability that**

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241 House of Lords Select Committee on the Licensing Act 2003, Report of Session 2016–17, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146, paras 273–274

242 House of Lords Select Committee on the Licensing Act 2003, Report of Session 2016–17, [The Licensing Act 2003: post-legislative scrutiny](#), HL Paper 146, para 276

**action is needed to reduce the burden of enforcement on disabled people. We appreciate the desire of the Government not to duplicate existing protections, but do not agree that proposals to amend the Licensing Act 2003 to require the reasonable provision of a basic level of accessibility in licensed premises would do so. Such amendments would not change the legal obligations of a licence holder, but would make those obligations more likely to be complied with.**

**154. *We recommend that the Government amend the Licensing Act 2003 to mandate local authority Licensing Officers to act on failures to make licensed premises accessible.***

## 6 Shared spaces

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155. The ability to access, and use the public realm—to do things as basic as using shops and meeting up with people outside your home—is vitally important to people’s ability to be, and to feel, active members of society. It is perhaps unsurprising, then, that we received a significant number of submissions specifically on shared spaces—a form of street design intended to decrease the dominance of motor traffic—probably the most significant of any single topic. We heard worrying evidence that Government inaction on this issue has caused real harm to the ability of many disabled people to live their lives, even in one case preventing an older man from leaving his home unaided.

156. While other of our recommendations should have a positive impact on people’s concerns about the decisions of local authorities to adopt shared space schemes—such as the use of inclusive design criteria in public procurement—the volume and strength of submissions told us that the issue needed specific consideration. We are not the only ones to think so: The House of Lords Committee on the Equality Act and Disability felt that there were advantages and disadvantages to this form of street design, but recommended that the Government update its

guidance for local authorities to address “how shared spaces schemes can best cater for the needs of disabled people.”<sup>243</sup>

While there are no official statistics on the prevalence of shared spaces, partly because the term is used to describe such a range of different possible designs, there is a broad consensus that their use is increasing. Our evidence demonstrates this is an issue on which people hold very strong views.

### What is a ‘shared space’?

157. The first barrier we came across in understanding the issues was that there is no definitive explanation of the term ‘shared space’. Ben Hamilton-Baillie, an urban design consultant strongly associated with the term, told us that it “was not meant to describe a particular type of space with particular characteristics”, but “a way of thinking about the design process and the engagement process, in order to improve the quality of public life”.<sup>244</sup> The Department for Communities and Local Government described shared spaces as:

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<sup>243</sup> House of Lords Committee on the Equality Act 2010 and Disability, Report of Session 2015–16, [The Equality Act 2010: the impact on disabled people](#) HL Paper 17

<sup>244</sup> Q159

one approach to street design and public realm among many available to local authorities to consider. Like all public realm improvements the aim is to help create attractive places that people want to spend time in, without the dominance of motor traffic, achieved through a range of measures. Within a shared space scheme, the intention is to encourage all types of road users to share the full width of the street.<sup>245</sup>

158. The Department for Transport's Local Transport Note (LTN) 1/11<sup>246</sup> which was produced in October 2011 and covers all shared space areas contains the following definition:

A street or place designed to improve pedestrian movement and comfort by reducing the dominance of motor vehicles and enabling all users to share the space rather than follow the clearly defined rules implied by more conventional designs.<sup>247</sup>

The Note goes on to say:

There is no such thing as a definitive shared space design. Each site is different and the way a street

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245 Department for Communities and Local Government ([DBE0124](#))

246 Department for Transport, [Shared space \(LTN 1/11\)](#) (October 2011)

247 Department for Transport, [Shared space \(LTN 1/11\)](#) (October 2011)

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performs will depend on its individual characteristics, the features included and how these features work in combination.<sup>248</sup>

159. Given this, we looked to the specific features of shared spaces that appeared to be raising the most concern. The Chartered Institute of Logistics and Transport identified these as:

the removal of traditional delineators between pedestrians and vehicles (such as kerbs and controlled crossing points) and the mixing of pedestrians and vehicles in the same street space<sup>249</sup>

This characterisation chimes with the evidence that we heard.

### Shared spaces in practice

160. The urban designer Ben Hamilton-Baillie argued strongly that shared space principles present opportunities to “reduce the severe inequalities for disabled people created by conventional highway-dominated streets”.<sup>250</sup> He told us that:

Initiatives to improve streetscapes are prompted by a range of different objectives. Usually these are

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248 Department for Transport, *Shared space (LTN 1/11)* (October 2011)

249 Chartered Institute of Logistics and Transport in the UK ([DBE0180](#))

250 Ben Hamilton-Baillie ([DBE0067](#))

associated with the adverse effects of dominant traffic on the economic vitality and social quality of a community. Higher speeds and highway dominance increasingly reduce the accessibility and connectivity of towns, and shops and local businesses suffer as a consequence. Other objectives are often associated with improving safety, inclusiveness, improving noise and air quality, and reducing congestion and delays. Although every scheme varies, the revitalisation effect of reducing traffic dominance through shared space is a common outcome.<sup>251</sup>

161. The reduction of traffic dominance, and reducing vehicle speeds, was a common theme among those who supported the use of shared spaces. The Urban Design Group told us that:

One of the objectives of Shared Schemes is to reduce vehicle speeds to below a level where they are capable of inflicting serious and fatal injuries on vulnerable road users. There is evidence from schemes such as Poynton or Bexleyheath High Street that the approach is successful.<sup>252</sup>

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251 Ben Hamilton-Baillie ([DBE0067](#))

252 Urban Design Group ([DBE0158](#))

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162. David McKenna (a chartered landscape architect and chartered engineer)<sup>253</sup> argued that reducing vehicle speed is “the only way to be certain you are improving safety.” Urban Design Group agreed, pointing out that “conventional kerbs do not stop fast moving vehicles, and [...] the primary source of danger is the vehicles themselves, rather than the configuration of the street.”<sup>254</sup> Mr McKenna went further, arguing that:

The more barriers and separation placed between pedestrians and vehicles, the higher the speed that drivers feel is appropriate. Designing a street or square in the manner of a pedestrianised scheme with no demarcation or barriers between pedestrians and vehicles is one of the best ways to slow traffic.<sup>255</sup>

163. This view was strongly rejected by many of our witnesses. Ken Miles of Kinross spoke of “daily near misses” due to speeding traffic in one area described as a shared space,<sup>256</sup> and Marianne Scullion in Kirkintilloch told us how she was almost knocked down when a van chose to overtake a car that had stopped to

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253 IBI Group ([DBE0115](#))

254 Urban Design Group ([DBE0158](#))

255 IBI Group ([DBE0115](#))

256 Ken Miles ([DBE0141](#))

allow her to cross.<sup>257</sup> Guide Dogs Ashford told us of how claims that the scheme there had slowed traffic and fostered “mutual respect” had been met with “laughter, often bitter, and some tears”.<sup>258</sup>

164. Jane Sellers, a blind person who had been involved in testing shared space schemes in London and Brighton, argued that “England is not as safe with regards to drivers who drive at higher speed than is necessary” compared with the countries where the schemes originated.<sup>259</sup> In Leeds we heard how one person had found himself stranded in his new home (a housing complex for people over the age of 55) because there was a shared space scheme outside his front door:

to my dismay subsequent to unpacking my belongings to move in, I found that because of the way that Burton House was situated [...] I could not get out and navigate my way to the main road and beyond [...]. The road to this day from my front door of the building where I live to the main road has a 30mph sign at the entrance which I am unable to get reduced

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257 Marianne Scullion ([DBE0174](#))

258 Guide Dogs Ashford ([DBE0072](#))

259 Jane Sellers ([DBE0171](#))

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to 20mph or less. Even at 20mph I would still have to navigate on the road surface itself with traffic coming towards me which I would not be able to see [...] and the only practical way out for me is by vehicle driven by a sighted person.<sup>260</sup>

165. Having rejected the argument that ‘shared spaces’ led to a reduction in vehicle speeds, witnesses went on to identify a range of features as problematic. These included the removal of kerbs, which those who were blind and partially sighted relied on to know when they were at risk of stepping into traffic: In Birmingham, a blind guide dog user described how he had been struck by a car in a shared space, because the lack of a kerb led his Guide Dog inadvertently to take him into the road to avoid scaffolding blocking the way;<sup>261</sup> the removal of controlled crossings, which many disabled people relied on to safely cross the road—both those with visual impairments<sup>262</sup> and those with neuro-diverse conditions or learning disabilities who “rely on set rules and have little flexibility of thought”,<sup>263</sup> variations

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260 Victor Jackson ([DBE0163](#)); Annex 1: Notes of Committee Outreach Events

261 Annex 1: Notes of Committee Outreach Events (Birmingham)

262 RNIB ([DBE0110](#))

263 Mrs Susan Davies ([DBE0023](#))—an individual who works with teenagers with moderate learning disabilities including autism

in the type of tactile paving used and colour schemes, leading to confusion as the 'message' given by these features varied from one scheme to another;<sup>264</sup> and designs that mandated the mixing of pedestrians and motor traffic—linked significantly to safety concerns.<sup>265</sup>

166. More than half of the submissions we received for this inquiry from private individuals were specifically on shared spaces, with many of those from disabled people speaking from personal experience. The number of individuals whose submissions cited safety concerns is striking. We have highlighted just a few of these in the box below.

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264 Guide Dogs ([DBE0114](#)); RNIB ([DBE0110](#)); Centre for Accessible Environments ([DBE0102](#))

265 Chartered Institute of Logistics and Transport in the UK ([DBE0180](#))

### Box 3: Evidence of safety concerns in shared space schemes

**Michael Broderick:** As a person with Cerebral Palsy who walks with crutches and who had previously fallen in a roadway years ago, shared space schemes terrify me. [...] With traditional roadway schemes and traffic lights or zebra crossings I have always had a level of comfort that—despite my disability—I have time to get across the road and that I will be seen. With shared space I have no comfort. I have fear. [...] I am a proud disabled man. I am not a second class citizen. But shared space schemes certainly make me feel like one.<sup>266</sup>

**Marianne Scullion:** Crossing this junction means you have to get eye contact from four sets of drivers before you can cross and is absolute chaos, especially at 3.30 when the schools are out. I obtained eye contact from the drivers when crossing but a van overtook at speed whilst I was on the road and could have knocked me down. Another lady and child were crossing too and she reported this to the police also. This is extremely

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266 Michael Broderick ([DBE0179](#))

267 Marianne Scullion ([DBE0174](#))

268 Barbara Walker ([DBE0166](#))

unsafe for the blind, children, elderly or disabled people. No-one in Kirkintilloch wants this scheme and I only go into the town now if I have to as it is dangerous.<sup>267</sup>

**Barbara Walker:** I have driven a mobility scooter for almost 40 years in the area so I am very aware of what is safe for me. I am unable to cross the main road, Cowgate, where they have removed the pedestrian lights at a junction and put in courtesy crossings. If I try to edge forward to attempt a crossing then I can't 'step back' like a pedestrian as someone would be standing behind me and I would run them down. In addition I find the grey and white patterning of the surface combined with the variation in kerb height visually confusing adding to my difficulty. I feel that this work is now preventing me from supporting many of the local shops and the library as well as my ability to move around the town now being very restricted.<sup>268</sup>

**Josie Iles:** I am a blind person with only light perception. I have been a Guide Dog owner but currently navigate using a long cane. Even in areas which are very familiar to me I need to use all the concentration and bravery I can muster to walk independently along a pavement. It is essential that I know

where vehicles are likely to be and where the safe refuge of the pavement is. [...] I rely heavily on well-defined kerbs. They provide reassuring feedback that I am safe and they are the contours of my mental map, telling me where I am and how to get to my destination. I rely very heavily on formal pedestrian crossings. Ones with traffic lights and audible signals are safest for me but zebras work well too. I need tactile paving to show me where the crossing is. [...] Shared space removes kerbs and formal crossings. They really do become 'no go' areas. [...] As my sight has failed I have become more sensitive to the built environment, I do not take it for granted. It has become more important to me. Remaining independent, getting exercise, interacting with my community is vital to my physical and mental well-being. Shared space makes my world smaller. It excludes and rejects me.<sup>269</sup>

**Gill Sheppard:** Gallowtree Gate in Leicester is a paved, traffic-free street. Some years ago the road running across at right-angles to the end of Gallowtree Gate had the same textured paving with no indication that there might be traffic about. Having been encouraged to think that the road in question (whose name I do not know) was part of the traffic-free area,

I proceeded to cross it. I discovered the hard way that I was wrong. While roughly in the middle of the road a bus shot by in front of me only inches away. It was a miracle that I was not killed that day.<sup>270</sup>

**Ken Miles:** I am writing with information regarding the £1.5 million Kinross High Street shared space/shared surface scheme which was completed one year ago. As a result of serious design failings the scheme has exposed pedestrians to danger from traffic. The Kinross High Street “improvements” have created many increased safety risks to pedestrians as the road remains the main route through the town for most vehicular traffic. Cars, heavy goods, including car transporters, buses, etc. still pass through the Kinross High Street.

As a result the shared space principle whereby pedestrians can own the road space on equal terms with traffic is not possible [...] unless you have a deathwish that is.<sup>271</sup>

167. In 2015 Lord Holmes of Richmond launched a survey about shared spaces. His report, *Accidents by Design*, published July 2015, concluded that:

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270 Gill Sheppard ([DBE0154](#))

271 Ken Miles ([DBE0141](#))

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Regardless of their mode of transport, disability status or gender, this survey found an overwhelming majority of respondents did not enjoy using shared spaces. This survey also found a third of respondents go out of their way to actively avoid shared space schemes. Respondents who did use them described feeling intimidated, anxious and frightened, not only for their own safety, but also for the safety of others.<sup>272</sup>

168. The concerns of our individual witnesses were supported by many organisations, including the Thomas Pocklington Trust, Disability Rights UK, Inclusion London, Guide Dogs and a number of local access groups, and also by participants at the outreach events we held in support of this inquiry.<sup>273</sup> The Disabled Peoples Transport Advisory Committee (DPTAC), for example, told us that the nature of some schemes meant that “local authorities and others are restricting the safe independent mobility of many disabled people”.<sup>274</sup>

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272 Lord Holmes of Richmond, [Accidents by design: The Holmes report on “shared space” in the United Kingdom](#) (July 2015), p 20

273 Thomas Pocklington Trust ([DBE0123](#)), Q19 (Sue Bott, Disability Rights UK), Inclusion London ([DBE0097](#)), Guide Dogs ([DBE0114](#))

274 Disabled Persons Transport Advisory Committee ([DBE0055](#))

169. The Department for Transport's Local Transport Note acknowledges that "shared space can provide benefits for many disabled people but, if it is poorly designed, it can be problematic for some, particularly blind and partially sighted people." The guidance goes on to say:

Consideration of the needs of disabled people (among other groups) is an important part of shared space design. The duties under the Equality Act 2010 are particularly relevant. [The Public Sector Equality Duty] requires public bodies to play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. Authorities will need to consider how different people are likely to be affected by new scheme proposals and due regard should be given to the effect they might have on those protected by the duty.<sup>275</sup>

170. Nevertheless, many argued strongly that local authorities were failing in their obligations under the Equality Act when making decisions on shared space schemes.<sup>276</sup> While Mr Hamilton-

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275 Department for Transport, *Shared space (LTN 1/11)* (October 2011)

276 Roger Cannon ([DBE0167](#)); David Hunter ([DBE0019](#)); Victor Jackson ([DBE0163](#))

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Baillie was adamant that when he coined the term ‘shared spaces’, the needs of people with disabilities were “central”,<sup>277</sup> Andrew Hugill, speaking for the Chartered Institute of Highways and Transportation about a review they were undertaking into shared spaces, told us that:

One thing in the review today is clear. If we actually look for evidence of whether those schemes have created inclusive environments, that evidence is very hard to find. One might suspect that is because it has not been an objective of the scheme from the start.<sup>278</sup>

171. Such concerns have led to calls for a moratorium on implementation of shared space schemes.<sup>279</sup> Lord Holmes argued that the results of his survey showed an “urgent need” for this, “until there is more and better evidence about the impact of

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277 Q160

278 Q168

279 Lord Holmes of Richmond ([DBE0073](#)); National Federation of the Blind of the United Kingdom, Leeds Branch ([DBE0038](#)); Margaret Hutchison ([DBE0164](#)); Janice Long ([DBE0140](#)); Sarah Gayton ([DBE0184](#)); Bradford and District Strategic Disability Partnership ([DBE0139](#)); Guide Dogs ([DBE0114](#))

shared space schemes including an improved (central) record of accident data and a better understanding of the consequences of people literally designed out of these spaces”.<sup>280</sup>

**172. The Government should not shy away from the debate on ‘shared spaces’ and take leadership. In light of the evidence that such schemes are excluding disabled people from the areas in which they are used, urgent action is needed.**

***173. We recommend that the Government require local authorities to call a halt to the use of shared space schemes, pending clear national guidance that explicitly addresses the needs of disabled people. This should, in particular, instruct local authorities that controlled crossings and regular height kerbs are to be retained and that they should undertake an urgent review of existing schemes, working with disabled people in their area to identify the changes that are necessary and practicable.***

174. As highlighted above, the House of Lords Committee on the Equality Act 2010 and Disability found that local authorities “should not be acting independently without any central

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280 Lord Holmes of Richmond, [Accidents by design: The Holmes report on “shared space” in the United Kingdom](#) (July 2015), p 20

guidance.” That Committee pointed out that the Department for Transport’s 2011 Note contains “only a brief reference to the Equality Act, and where the problems of disabled people are dealt with, there is little specific guidance.” That Committee therefore recommended that:

The Department for Transport should update its 2011 Local Transport Note to offer guidance to local authorities on how shared spaces schemes can best cater for the needs of disabled people. Local authorities should review existing schemes in the light of that guidance, make changes where necessary and practicable, and base any new schemes on that guidance.<sup>281</sup>

175. This need for greater national consistency was echoed by the British Standards Institution’s (BSI) Committee B/559, who wanted “a set of ‘principles’, to ensure that a safe, readable environment is created”. They argued that “this needs to be done

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281 House of Lords Committee on the Equality Act 2010 and Disability, Report of Session 2015–16, [The Equality Act 2010: the impact on disabled people](#) HL Paper 17

centrally, by the government, to ensure credibility, national ‘buy in’ and adoption.<sup>282</sup> Leicester Disabled Peoples Access Group (LDPAG) argued that:

There can be conflicts between differing needs—dropped kerbs with tactiles being an example where there had to be compromise to meet the needs of both wheelchair users and blind people. Research was important to find that compromise. Standardisation helps people to recognise the meaning of features wherever they are. With shared space schemes, non-standard features are being used, differing from scheme to scheme even within one town or city. This is not being done in a controlled manner, so poor examples are being copied.<sup>283</sup>

176. Worryingly, one of the urban designers active in creating ‘shared space schemes’ appeared to be arguing *against* the use of inclusive design principles:

Everybody uses the streets and spaces in our towns and cities therefore it is essential that a design balances the

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282 British Standards Institution’s (BSI) Committee B/559 – Access to buildings for disabled people ([DBE0084](#))

283 Leicester Disabled Peoples Access Group ([DBE0131](#))

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needs of the very wide range of users. This necessarily requires compromise from everyone. I do not believe that the best design is necessarily one that focuses on the needs of the most vulnerable user group. It is crucial that the design of public realm is not skewed to any particular user group as this will adversely affect others and produce bad design.<sup>284</sup>

177. The Government rejected the Lords' Committee's recommendation, taking the view that it "does not promote or discourage the adoption of shared spaces." This was because:

Decisions on design of the streets in their care are matters for the local authority, including the provision of pedestrian crossings and delivering public realm improvements. They are responsible for ensuring any measures they provide meet relevant legislation, and enable them to meet their duties under equalities legislation.<sup>285</sup>

178. The Government did, however refer to the review being undertaken by the CIHT, which it said:

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284 IBI Group ([DBE0115](#))

285 Department for Communities and Local Government ([DBE0124](#))

is planning to produce new guidance on shared space. DfT officials are also involved in this work and sit on the project steering group. [...] Although this will be published by CIHT, not DfT, there is the opportunity for DfT to endorse the document as good practice, which will help its standing among practitioners.<sup>286</sup>

179. However, it appears that as the work has progressed the CIHT have realised that guidance may not yet be feasible. Andrew Hugill of the CIHT told us that this had been the intention at an earlier stage but “what we are doing at the moment is a review where we will be making recommendations.”<sup>287</sup> He was clear that the review “in itself will not be sufficient to change everything”. Lord Holmes found it “curious” that the Department for Transport was not taking a leadership role “hand in hand” with the Department for Communities and Local Government. Mr Hugill agreed, stating “Does the Government have a responsibility? Yes.”<sup>288</sup>

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286 Minister for Women and Equalities, Government Response to the House of Lords Select Committee Report on The Equality Act 2010: The impact on disabled people, [Cm 9283](#), July 2016

287 Q187

288 Q181 (Lord Holmes of Richmond; Andrew Hugill)

180. We were concerned to hear that the Government now appears to expect the results of the review of shared spaces by the Chartered Institute of Highways and Transportation to be the identification of gaps in evidence—not new guidance—leaving no clear plan to address the lack of a common approach on shared spaces that takes full account of the extensive concerns of disabled people and the organisations that represent them. The Government does not seem to have grasped the seriousness of the barrier to inclusion that certain features (or the lack of certain features) present to so many disabled people.

181. *We recommend that the Government takes a clear lead and urgently replaces the 2011 Local Transport Note on shared spaces with new guidance, founded on an inclusive design approach, to ensure that any resultant schemes are inclusive, navigable and welcoming for disabled people. This guidance should:*

- a) be developed with disabled people;*
- b) explicitly address the needs of all disabled people, including but not limited to people who are blind*

*and partially sighted, people who have ambulant mobility difficulties and people with a neuro-diverse condition or learning disability;*

*c) lay down consistent national standards so that disabled people can navigate, learn and independently use such schemes anywhere in the country;*

*d) be clear that safety and usability requirements, such as controlled crossings and kerbs, are not optional;*

*e) Provide details on how the requirements of the public sector equality duty and the duty to make reasonable adjustments apply to the design and implementation of such schemes.*

182. Adequate guidance is important, but individuals also need an accessible means to challenge decisions when such guidance is not adhered to. *We recommend that the Government bring forward Regulations under section 22(2)(a) of the Equality Act 2010 to specify that organisations which fail to comply with the new guidance recommended above will not be considered to have taken reasonable steps for purposes of the duty to*

***make reasonable adjustments. This will make it easier for disabled individuals to establish discrimination contrary to section 21 of the Equality Act 2010.***

***183. The Government should also ensure that advice is readily available for individuals on how to challenge local authorities on existing or new schemes which exclude or have the potential to exclude disabled people.***

## 7 Conclusion

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184. We began this report by outlining the many and varied examples of disabling barriers that our witnesses told us that they experienced. We have examined the various stages of law and policy through which the Government can, and should, be expected to address these barriers: from high level leadership and strategy, thorough detailed local planning and decision making and onto the kind of minimum standards that, as a society, we should be able to expect.

185. There are record numbers of disabled people in work, and disabled people have the right to participate in all parts of life under the law. This is undermined if the built environment locks them out.

186. Throughout our work, a few key themes have struck us. Firstly, the Equality Act 2010 is not having the kind of impact that it was expected to have. The Government has left change to be achieved through a model of enforcement that relies on litigation by private individuals who, by definition, have already been placed at a disadvantage by the situation or actions that they are seeking to challenge.

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187. This brings us to the second theme: there is a real need for a proactive, concerted, effort on the part of ‘mainstream’ systems and structures—be that national and local government or the professionals responsible for creating and changing our built environment—to take seriously the challenge of creating an inclusive environment.

188. Our current, all-too-often inaccessible, built environment was not created overnight, and will not be mended overnight, but those with the influence to do so have had over twenty years since the 1995 Disability Discrimination Act first set out the standards expected of them. We believe that this report sets out a realistic but challenging agenda that, if adopted by the Government, can make this issue a priority again and deliver the change that disabled people, and society, need if our laws on disability discrimination are to have the impact that was intended when they were passed over 20 years ago.

# Conclusions and recommendations

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## Bring coherence and impact to the legal framework

1. Strategic leadership and greater coordination is needed across Government in order to join up the different parts of the jigsaw, including planning, the building regulations, the Equality Act, Disabled Facilities Grants, ways for disabled people to find accessible housing and facilities and the activities of other Government Departments, such as the Department for Transport. (Paragraph 27)
2. *We recommend that a cross-departmental strategy be established to bring together all aspects of built environment policy affecting accessibility. The Department for Communities and Local Government (DCLG) should be accountable for this strategy. DCLG should also convene a stakeholder forum of, among others, disabled people, to influence and provide feedback on this strategy annually.* (Paragraph 28)

## Involvement of disabled people

3. Engagement with disabled people is happening at the local level, and there is good practice that shows what can be achieved when people are engaged meaningfully. However, all too often engagement is experienced as an afterthought or a mechanistic process with little effect on the outcome. (Paragraph 36)
4. *We recommend that best practice guidance is produced by DCLG in partnership with disabled people's organisations to provide guidance for local authorities and built environment professionals on how and when to involve disabled people in the processes which lead to the creation of built or external environments.* (Paragraph 36)

## Leading by example

5. Reliance on the minimum standards of the building regulations is not sufficient to secure an inclusive built environment. We explore below concerns that these minimum standards are themselves out of date. Regardless of that, we should expect more of our public services than adherence to a minimum. The model of the 2012 Olympic and Paralympic

Games shows what can be achieved when ambitions are set high, and British Standards provide a clear statement of what those ambitions should be. (Paragraph 43)

6. *We recommend that the Government ensures, as a minimum, compliance with existing regulations by proactively setting out inclusive design and accessibility standards to be required of all publicly-funded works. In doing so it should use the most recent versions of BS8300 (Design of buildings and their approaches to meet the needs of disabled people), updating requirements as those standards change, and use its commissioning and procurement systems to ensure that appropriately high standards are adhered to.* (Paragraph 44)
7. *We recommend that the Government undertake a review into the possibility of using tax exemptions, and specifically VAT exemptions, for the installation of specific physical features that improve accessibility to incentivise building works which improve access for disabled people to, from and within buildings and facilities.* (Paragraph 48)
8. We agree that the proposal for a kitemark or certificate setting out information on the access features of a public building is a good one, especially for buildings used by

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public bodies who should already be leading by example and demonstrating they actively consider, assess, and plan access and inclusion for disabled people. Those meeting their existing legal obligations will already be doing this, and greater transparency can act as a spur to others. (Paragraph 51)

9. *Taking British Standard 8300 as the starting point, the Government should require public authorities to publish information on the accessibility of buildings owned or used by them, along with information on how accessibility is managed and maintained.* (Paragraph 52)

## **Inclusive design and the National Planning Policy Framework**

10. The National Planning Policy Framework tells local authorities that inclusive design is important but does not make its legal status sufficiently clear, with the result that inclusive design is being treated as a 'nice-to-do' and not a statutory requirement. Even putting aside the significance of inclusive design to our future built environment, this leaves local

authorities at risk of breaching their obligations to anticipate the need for reasonable adjustments and of failing in their public sector equality duty. (Paragraph 64)

11. *We recommend that the Government amend the National Planning Policy Framework and the National Planning Practice Guidance to incorporate a dedicated section on access for disabled people and inclusive design for local planning authorities and decision-takers. This should provide details of the requirements on how local planning authorities should address these subjects in terms of planning and design of the built environment and public spaces as well as housing.* (Paragraph 65)

## **The role of the Planning Inspectorate in Local Plans**

12. The Minister for Planning and Housing told us that “if plans are not consistent with national planning policy, inspectors should not be approving them.” We agree. (Paragraph 68)

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13. *We recommend that the Equality and Human Rights Commission undertake a formal investigation and/or assessment into the compliance of the Planning Inspectorate with the Equality Act 2010. (Paragraph 70)*
14. *We recommend that, while this work is ongoing, the Government direct the Planning Inspectorate to pay closer attention to ensuring, as the NPPF sets out, that plans are founded on an inclusive design approach, and specifically that no Local Plan documents are to be judged ‘sound’ without evidence that they address access for disabled people in terms of housing, public spaces and the wider built environment. (Paragraph 71)*

### **Planning applications**

15. While it may be true that, in making planning decisions, trade-offs will be required, provision for accessibility and inclusion should not be discounted without serious consideration—not least because this is a requirement of the public sector equality duty and the anticipatory reasonable adjustment duty. (Paragraph 75)

16. *We recommend that the Government make clear in the revisions to the NPPF (recommended above) that planning consent should only be given where there is evidence that a proposal makes sufficient provision for accessibility and inclusion. (Paragraph 76)*
17. We share concerns that there has been a loss of expertise on inclusive design and access at local level over recent years. (Paragraph 80)
18. *The White Paper on housing offers an opportunity for the Government to work with local authorities on ensuring access to the specialist expertise necessary to support the creation of an accessible and inclusive built environment, and we fully expect it to take that opportunity. (Paragraph 80)*

## **Training for built environment professionals**

19. We welcome evidence of strong government support for initiatives to improve training and education of built environment professionals in inclusivity and accessibility. We also welcome the work being done by the Design Council to produce an online Inclusive Design CPD module for built environment professionals by Summer 2017. (Paragraph 84)

20. *We recommend that the Government assist the Design Council in securing funding to deliver for an online Inclusive Design CPD module. (Paragraph 84)*

## **Government policy on increasing the supply of housing**

21. We welcome the Government's acknowledgement that accessibility is an important element in ensuring that the country has adequate housing supply, and the expected new guidance on local policies for accessible housing. However, many local authorities already have their Local Plans in place, and may not recognise the need to review their housing policies. (Paragraph 92)

22. *We recommend that, once the new guidance under the Neighbourhood Planning Bill is adopted, the Department for Communities and Local Government undertake an audit of local plans to identify those that do, or do not, meet that guidance. Where this audit reveals gaps in accessible housing policies, the Government must take action to press local authorities to amend their Local Plans in line with the new guidance as a matter of urgency. (Paragraph 93)*

## Improving supply through standards for new homes

23. While we recognise that some, small-scale, conversions of existing buildings to housing may not be able to meet the standards of Part M, we do not agree that this means none can. Significant developments are currently able to go ahead without any provision for accessible housing—not even the minimum ‘visitability’ standard. It is not beyond the ability of Government to create, within the Building Regulations, a presumption that the relevant standards will apply unless there is good evidence to show that they cannot do so. (Paragraph 103)

24. *We recommend that the limits of application of the Building Regulations applicable to Part M Vol. 1 be amended so that Part M and its optional requirements apply to all new dwellings—both new build and conversions.* (Paragraph 104)

25. We agree that local authorities need to understand the housing needs of their local population, and welcome the Government’s changes to the Neighbourhood Planning Bill that seek to ensure that this happens. However, we do not see why a local authority should be required to prove

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such need if it wants to prevent inaccessible housing from being built. Even in the unlikely event that, currently, few residents need accessible homes the reality is that this will change—whether through disabled people being born or moving into the area, or existing residents acquiring disability through illness, accident or the natural ageing process. (Paragraph 109)

26. Wherever people live or choose to live in the future, there should be real choice in the housing available to them. For this to happen we need to ‘future-proof’ our housing policy by changing the starting point: rather than requiring a local authority to prove that there is a current need to be met, we should start from the assumption that there is such a need. (Paragraph 110)

27. *The Government should remove the requirement on local authorities to prove an immediate need for accessible housing when applying optional access standards to proposed housing within their area. Developers should be able to obtain exemptions from these standards only in specific cases where they can bring forward evidence that such a need does not exist.* (Paragraph 111)

28. The evidence to us is clear that the minimum standard set in Approved Document M4(1) is simply too low to meet the needs of the population, and should be retained only for those properties where the higher standards would demonstrably make development unviable. While we recognise that there are additional costs involved, those resulting from meeting M4(2) make up only a fraction of the cost of building a new home. (Paragraph 121)

29. *We recommend that the Government amend the default minimum baseline standard for all new homes under Part M of the Building Regulations (vol. 1) to Category 2 (M4(2)). We accept that there may be a need for exceptions to this policy, but the minimum of 'vistability' under M4(1) should only be available where an applicant for planning permission can prove that it would not be feasible to meet the new minimum standard.* (Paragraph 122)

## **Building Regulations for buildings other than dwellings**

30. *Approved Document M of the Building Regulations (Volume 2) (buildings other than dwellings) should be updated to ensure it is still relevant and adequately addresses access for*

*disabled people today, adopting an inclusive design, pan-impairment approach. The starting point for this should be guidance in the emerging British Standards on the subject, with the aim of 'levelling up' Approved Document M guidance as new standards are developed. (Paragraph 134)*

## **Changing Places toilets**

31. *We recommend that the update to the requirements of Part M Vol. 2's approved document include a requirement to provide a Changing Places toilet in all large building developments which are open to the public, unless it can be demonstrated that adequate provision is already in place locally. This will require DCLG to undertake an assessment of what is reasonable to define as a 'large' development for these purposes—but we expect that as a minimum the requirement will apply to, for example, large shopping centres. (Paragraph 142)*

32. *We further recommend that the action plan on the accessibility of public transport, currently being developed by the Department for Transport, include action to improve the availability of accessible and Changing Places toilets in transport infrastructure. (Paragraph 143)*

## The requirements of the Equality Act and enforcement of those requirements

33. Our evidence supports the view of the House of Lords Committee on the Equality Act 2010 and Disability that action is needed to reduce the burden of enforcement on disabled people. We appreciate the desire of the Government not to duplicate existing protections, but do not agree that proposals to amend the Licensing Act 2003 to require the reasonable provision of a basic level of accessibility in licensed premises would do so. Such amendments would not change the legal obligations of a licence holder, but would make those obligations more likely to be complied with. (Paragraph 153)

34. *We recommend that the Government amend the Licensing Act 2003 to mandate local authority Licensing Officers to act on failures to make licensed premises accessible.* (Paragraph 154)

### Shared spaces

35. The Government should not shy away from the debate on 'shared spaces' and take leadership. In light of the evidence

that such schemes are excluding disabled people from the areas in which they are used, urgent action is needed. (Paragraph 172)

36. *We recommend that the Government require local authorities to call a halt to the use of shared space schemes, pending clear national guidance that explicitly addresses the needs of disabled people. This should, in particular, instruct local authorities that controlled crossings and regular height kerbs are to be retained and that they should undertake an urgent review of existing schemes, working with disabled people in their area to identify the changes that are necessary and practicable.* (Paragraph 173)

37. We were concerned to hear that the Government now appears to expect the results of the review of shared spaces by the Chartered Institute of Highways and Transportation to be the identification of gaps in evidence—not new guidance—leaving no clear plan to address the lack of a common approach on shared spaces that takes full account of the extensive concerns of disabled people and the organisations that represent them. The Government does

not seem to have grasped the seriousness of the barrier to inclusion that certain features (or the lack of certain features) present to so many disabled people. (Paragraph 180)

38. *We recommend that the Government takes a clear lead and urgently replaces the 2011 Local Transport Note on shared spaces with new guidance, founded on an inclusive design approach, to ensure that any resultant schemes are inclusive, navigable and welcoming for disabled people. This guidance should:*

- a) *be developed with disabled people;*
- b) *explicitly address the needs of all disabled people, including but not limited to people who are blind and partially sighted, people who have ambulant mobility difficulties and people with a neuro-diverse condition or learning disability;*
- c) *lay down consistent national standards so that disabled people can navigate, learn and independently use such schemes anywhere in the country;*
- d) *be clear that safety and usability requirements, such as controlled crossings and kerbs, are not optional;*

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e) *Provide details on how the requirements of the public sector equality duty and the duty to make reasonable adjustments apply to the design and implementation of such schemes. (Paragraph 181)*

39. Adequate guidance is important, but individuals also need an accessible means to challenge decisions when such guidance is not adhered to. (Paragraph 182)

40. *We recommend that the Government bring forward Regulations under section 22(2)(a) of the Equality Act 2010 to specify that organisations which fail to comply with the new guidance recommended above will not be considered to have taken reasonable steps for purposes of the duty to make reasonable adjustments. This will make it easier for disabled individuals to establish discrimination contrary to section 21 of the Equality Act 2010. (Paragraph 182)*

41. *The Government should also ensure that advice is readily available for individuals on how to challenge local authorities on existing or new schemes which exclude or have the potential to exclude disabled people. (Paragraph 183)*

# Annex 1: Note of Committee Outreach Events

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## Overview

The Committee held three outreach events to hear from disabled people and those handling issues of accessibility on the ground: one in Bath (November 2016), one in Birmingham (January 2017), and one in Leeds (March 2017). Participants at each of these events included a mixture of individual disabled people, disabled people's organisations, disability charities, built environment professionals, and representatives of local authorities. Discussions were facilitated by Committee Members, and anonymised notes were taken of the discussions.

## Event 1: Bath

The group discussed barriers to accessibility in the built environment, changes that would make the built environment more accessible and the involvement of disabled people in decisions affecting accessibility in the built environment.

Attendees were asked what one change to the built environment would make the biggest difference in their lives. The response

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was that one change wouldn't make a difference: participants felt strongly that the built environment as a whole needed to change. The group identified a number of barriers, some structural and some caused by behaviour. Examples cited were parking over dropped kerbs and frustration over dropped kerbs not being consistent, being unable to get into shops due to small steps with no ramp and people missing medical appointments because of barriers getting there.

Participants felt that too often accessibility was an afterthought, resulting in costly retrofitting, and that there was a need to recognise that access is not just about people with disabilities—it is about society as a whole. The importance of the design of the public realm to public health also needed to be better recognised.

The group argued that people have a range of disabilities, and that often a solution for one group can provide benefits for others. They gave the example of ensuring that the availability and location of dropped kerbs was consistent, which they felt would meet the needs of both wheelchair users and those with visual impairments.

The 'heritage' environment of Bath presented problems, and participants felt that there had been no noticeable changes in such 'old towns' since the Equality Act 2010. The apparent unwillingness of conservation officers to allow adjustments for the purpose of access was cited as a barrier. On a more positive note, participants welcomed the development of a Bath Accessibility App, which they felt could help people to 'take control' of their environment.

Further detailed discussion focussed on four areas: design and planning; legal issues; local authorities; and homes and housebuilding.

### ***Design and planning***

Participants were concerned that new buildings didn't necessarily conform to access design standards, and this was not always picked up by local planning officers as they may not have the expertise to be able to make this assessment. They were particularly concerned that local authorities did not always have access to the specialist advice that they needed and while there were organisations that could offer such advice they could be quite costly. It was also felt that building inspectors were not as good on access as they used to be.

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The group felt that the training of architects needed to be improved, and that 'human factors' in design were missing, meaning that it was not inclusive design. They felt there needed to be a 'normalisation' of assessing architectural designs for built environments, housing or outside spaces for inclusiveness and that planners and architects did not see accessibility as a process of continuous development.

Thirdly, the group discussed the role of developers and the 'client'. They felt that there was a power relationship problem between developers and clients, local authorities and end users. Architects could only make a decision with the consent of their client, and participants were concerned that clients over-rode the built environment specialists as they did not understand their obligations under the Equality Act 2010.

### ***Legal issues***

Participants argued that legal protections meant nothing if people weren't held to account and legal protections enforced. They were concerned that the Equality Act 2010 watered down the protection for disabled people from that contained in the Disability Discrimination Act 1995 and that more specific legal

guidelines for designers, builders and architects were needed. The existing guidance on shared spaces was felt to be especially flawed.

They felt that there needed to be greater clarity for service providers on their duties, that public bodies were not meeting their obligations under equality law and that the Equality and Human Rights Commission should have 'teeth' to be able to enforce the guidelines, similar to what the Disability Rights Commission had done in the past. They felt strongly that enforcement needed to be followed through.

### ***Local authorities***

Discussing the role of local authorities, participants acknowledged that local authorities had suffered cuts and there were now limited numbers of access officers available. Some councils had responded by bringing in access specialists as contractors, but this was not always the case. Participants argued that an ageing population meant that simple things like putting hand rails and ramps in public areas would be a large help for a number of groups of people—both families and disabled people.

The introduction of shared spaces was felt to have had a particularly negative impact on people with visual impairments

and other disabilities, due to the lack of push-button crossings and these areas being exceptionally difficult to navigate. They felt that consultation from local authorities on planning and development of open spaces was poor.

### ***Homes and house building***

The group felt that there was a lack of accessible housing, and that younger disabled people and those acquiring disabilities were particularly affected. A young person in the group talked about how he had struggled to find accessible housing in a location that allowed him to live independently, while another participant talked about the difficulties of getting adaptations to an existing home after a stroke.

The group felt that opportunities for construction companies to work with accessibility officers or to adhere to accessibility guidelines were being missed. They found this frustrating as “it doesn’t cost extra if it is included in the plans from the start”, for example putting in a ramp or space for a lift, and because they had found that volume housebuilders were reluctant to change existing designs to improve accessibility. They had found that

builders didn't 'cater for the exceptions', such as those who have disabilities. They spoke of people unable to get in or out of their front or back doors as they were not wide enough.

## **Event 2: Birmingham**

The attendees split into two groups and discussed four questions. Below are the points made in response to each question.

### ***Q1: How can we remove barriers, related to the built environment, that prevent disabled people from using services (public or private)?***

Participants argued that accessibility was not just for buildings but also for the journey to get to buildings. They identified local concerns around poor access to local shops, parking, trains, and trams. Many felt that floating bus stops did not work for those with sight loss and that the 'touchscreen culture' was problematic. Concern was also expressed that new buildings did not adhere to inclusive design requirements.

Participants felt that the current rules allowed for too much subjectivity in deciding what was accessible, and were concerned that the building regulations do not go as far as British Standards. They felt that access experts were often not involved early enough, and that local authorities in particular should be doing

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more to involve disabled people in the design of future building projects. Involving the person who would be managing the building early on would also help to ensure that a building met accessibility requirements.

Participants felt that the concept of 'reasonable' adjustments did not go far enough and wanted to see 'necessary' adjustments carried out. They emphasised the need to recognise that there is a variety of disabilities and that disabilities are not always immediately visible.

### ***Q2: Can local authorities do more through licensing, planning and/or enforcement to increase the accessibility of the built environment?***

Participants felt that planning authorities were not doing enough to critically examine accessibility plans. They wanted to see new homes that were as accessible as possible and better minimum standards when properties go through change of use. People felt the Birmingham Council seemed to be making public spaces more attractive at the expense of accessibility.

Participants argued for better access leaders in local authorities who have knowledge of inclusive design and 'consequences' on those who fail to comply with accessibility regulations. They

wanted current laws to be enforced and have 'teeth', particularly those about parking on pavements, any premises requiring a licence to be better policed on accessibility and for an increase in the importance given to disability in national standards and guidance. They felt that local authorities, and Access Officers in particular, needed the ability to enforce the Equality Act 2010 and that access audits of all buildings were needed, alongside a budget to make changes.

***Q3: What is your experience with shared spaces and what do people mean when they say 'shared space'?***

Participants told us that people with visual impairments were very afraid of shared spaces. They argued that shared space was a trend and fashion, suitable for those looking for aesthetic designs but not for disabled users. Participants wanted a moratorium on new shared spaces until proper guidance is in place, a ban on the removal of kerbs and controlled crossings and an immediate accessibility audit of current shared space schemes. Specific problems cited included:

- A need for controlled crossings and minimum kerb heights;
- That people cannot hear electric cars;

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- That guide dogs are trained to stop at a kerb, so not having a kerb is a problem;
- That shared space designs are not uniform across the country, making it difficult to learn how to navigate them;
- That there was a lack of data collection on incidents and accidents in shared spaces, including those related to courtesy crossings.

### ***Q4: How effectively are communities able to engage with the process of decision making that shapes the accessibility of the built environment?***

Participants argued that “it should be do it ‘with’ us, not ‘for’ us when it comes to building consultations” and that statutory co-production would be better than the current system of consultation. They felt consultation was often used as an excuse to not do an impact assessment and argued that local authorities should be held to account by ‘equality impact and design and access assessments’. Concern was expressed about how consultation was carried out, for example a lack of direct contact with visually impaired people meant many were not able to engage with consultations that were advertised using mainstream methods.

## Event 3: Leeds

Attendees were split into three tables which considered: their experience of local authorities, involvement of disabled people, and the use of shared space principles in street design.

### *Role of local authorities*

Participants felt that the Equality Act 2010 had had less of an impact than anticipated. They questioned why new buildings were still being built with steps up to entrances, and access removed in existing places because it was not 'aesthetically pleasing'. They felt that businesses were not reprimanded for lack of reasonable adjustments in their buildings, and that people tended to feel that if they accommodated wheelchair users then they had made adequate provision for all those with disabilities. They felt that access tended to be seen as an additional, not integral, aspect to consider.

Participants were concerned that current legislation did not require organisations and businesses to improve accessibility when conducting refurbishments. They argued that information on a building's accessibility features should be displayed online and at the entrance, and that a kitemark system to rate building accessibility should be introduced as well as financial incentives

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such as VAT exemptions for refurbishments that improved accessibility. Organisations struggled to find accessible office spaces in Leeds, and it was felt that such an exemption could be particularly helpful in improving the accessibility of offices undergoing refurbishment. The group also wanted to see licensing used more effectively to improve accessibility, including more powers under the Licensing Act 2003.

Participants were concerned that the reduction in access specialists employed by local authorities and the lack of people entering the profession were having a negative impact. Leeds was hailed as an example of giving good planning guidance, credited to their in-house expertise, but participants were concerned that this was not true elsewhere in the country. They gave examples of where advice had been ignored: in Bradford a unit established to engage disabled people on work to a train station had advised that lifts be built but ramps were used instead.

### ***Involvement of disabled people***

Participants wanted to see active listening by public body decision-makers, enforcement of legislation and more building controls on redevelopment and refurbishment work. They felt

that there was a need for overarching and well-established objective guidance, and that it should be a legal requirement to involve disabled people from the start.

Participants had seen examples of:

- refurbishment resulting in accessibility going backwards; this could be because service providers were unaware of their responsibilities under the Equality Act 2010 or the application of the building regulations with respect to worsening of existing features;
- long distances between disabled car parking spaces and the building entrance;
- basic principles such as flat surfaces from car parks to entrances, windows in doors, and lifts were not considered in schemes.

The group was not sure whether local authorities had the power to make public buildings more accessible, or whether they were using the powers they have. They were concerned that “austerity is pushing disability consideration to the bottom of the agenda”.

The group expressed a strong sentiment that local authorities and public bodies had little interest in hearing disabled people’s

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views on public space accessibility. They cited a survey stating that two-thirds of British adults feel uncertain about engaging with a person with a disability and one-fifth would go out of their way to avoid disabled people. Participants had seen fire safety used as a reason to remove disabled people from meetings. They felt that local authorities needed to have better systems in place, and publicise such systems, to allow disabled people to contribute to public planning on accessibility and that committees and platforms such as Public Engagement Advisory Groups and disability committees in local authorities needed to be better embedded.

### ***Experiences of 'shared spaces' schemes***

The group argued that a specialist is needed within each local authority to champion disabled people's rights, provide accountability to avoid inquiries from being 'passed around' numerous members of staff across departments, and be active in enforcing any legal provisions or guidelines introduced on shared spaces. There was also a need for clear and consistent national regulations on access, in order to put equal access at

the top of the agenda for builders and planners. The Department for Transport had promised an update of guidance on shared spaces in 2015, but had not yet delivered.

The group was concerned that as devolution and localisation progressed there was an increasing lack of consistent enforcement, and that police enforcement of obstruction of pavements was lacking. Some argued that local authorities need the confidence to upset one group in order to award rights of equal access to another. The group did not want to see shared spaces put in, arguing that flat surfaces mean guide dogs and cane users cannot use the texture of the ground to navigate the environment. Such factors caused confusion and created dangerous situations. They wanted to see kerbs raised from current average of 25mm to 60mm for guide dogs and cane users to better recognise them, hybrid and electric cars equipped with sound so they pose less of a threat to those who are blind and argued that the UK should adopt an institution like that of the US 'federal road safety agency' to better enforce, focus on and manage road safety.

### ***Suggestions for recommendations***

Each table was asked to consider the recommendations they would like the Committee to make. Proposals included:

- A national approach and strategy with clear consistent laws regarding provision of access socially and environmentally;
- Public buildings to be audited on accessibility and the audit information made publically available;
- Using tools like VAT exemptions to incentivise improvements in accessibility standards;
- Make involvement of disabled people in planning processes statutory;
- Use apprenticeships and qualifications to help develop expert access officers.

## Annex 2: Terms of Reference

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### Definitions

#### ***Built environment***

In using the term “built environment”, we include homes, public buildings, commercial premises and the public realm (publicly owned streets, pathways, right of ways, parks, publicly accessible open spaces and any public and civic building and facilities.) To keep the scope of this inquiry manageable, we will not be covering public transport, but we will continue to pursue issues raised by the recent [Equality Act 2010 and Disability Committee](#) in our wider work.

#### ***Accessible / accessibility***

We use the social model of disability. By accessible we mean usable by most people regardless of their age, agility and physical, sensory or other abilities and easily adaptable for use by people with very specific needs, such as physical disabilities.

### Call for written submissions

The Women and Equalities Committee invites written evidence that focuses on one or more of the following issues:

***Government policy on and current provision of accessible properties (including homes and commercial premises)***

- How adequate is the supply of accessible properties (including homes and commercial premises)?
- To what extent is the Government taking current and future needs for accessible homes into account in its policies on increasing housing supply?
- How effective are the planning and building regulations systems in ensuring the provision of new accessible / lifetime homes?
- What can be done to increase the accessibility of existing housing stock to support independent living?
- Could financial or other mechanisms be used to encourage developers to go beyond minimum standards of accessibility?

***The effectiveness of UK legislation, policies and standards on accessibility in the built environment***

- How well do Part M of the Building Regulations and Approved Document M perform in providing reasonable levels of accessibility in the built environment and what could be done to improve performance?
- Is there sufficient compliance with building regulations and requests for reasonable adjustment? If not, what more could be done to increase compliance?
- Do current standards regarding accessibility in the built environment take account of the full range of disability and impairment needs? (For example, are the needs of people with dementia, the visually impaired, those with mental health issues and older people given sufficient consideration? If not, what more could be done to increase inclusivity?)
- What is the role of reasonable adjustments in delivering accessibility?

***Design and management of the public realm***

- Are the needs of all groups given adequate consideration in the design of streets, highways, parks and publicly accessible open spaces and in the provision of services such as public toilets?
- To what extent do shared space schemes in roads and highways cause barriers for disabled people and how can these be resolved?
- What opportunities are there for delivering greater accessibility and inclusivity alongside more age-friendly towns and cities, including liaison with the NHS?

***The role of designers, architects and built environment specialists in ensuring accessibility and inclusivity***

- To what extent is the need for accessibility taken into account in the design of buildings and public spaces? What can the professionals who are responsible for the creation, maintenance and retrofitting of our built environment do to ensure that buildings and public spaces are as accessible and inclusive as possible?

- How well is inclusive design built into training for built environment specialists such as planners, designers, architects and building inspectors? Is there sufficient continuing professional development on inclusive design for such specialists? What tools and techniques are needed to infuse inclusive design into education and training programmes?
- How can changes to the way we create and adapt our built environment, such as building information modelling and modern methods of construction, contribute to making environments more accessible and inclusive?

### ***Local involvement in decision-making***

- How effectively are communities able to engage with the process of decision making that shapes the accessibility of the built environment? Are there any barriers to effective public engagement and if so, how might these be addressed?
- Could local authorities do more through licensing, planning and/or enforcement to increase the accessibility of the built environment?

## Formal Minutes

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**Wednesday 19 April 2017**

Members present:

Mrs Maria Miller, in the Chair

Tracy Brabin

Holly Lynch

Philip Davies

Mr Gavin Shuker

Mrs Flick Drummond

Draft Report (*Building for Equality: Disability and the Built Environment*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 188 read and agreed to.

Annexes and Summary agreed to.

*Resolved*, That the Report be the Ninth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 26 April 2017]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 26 October 2016

**Sue Bott**, Deputy Chief Executive, Disability

Rights UK, **Zara Todd**, Chair, Inclusion London,

and **Jolie Goodman**, Manager and Lead

Facilitator, Mental Health Foundation

[Q1–20](#)

**Martin McConaghy**, The Access Association,

**David Petherick**, Chairman, B/559 Committee,

British Standards Institution, and **Chris Fry**,

Solicitor and Managing Partner, Unity Law

[Q21–52](#)

## Wednesday 23 November 2016

**Steve Quartermain CBE**, Chief Planner,  
Department for Communities and Local  
Government, **Mary Travers**, Group Manager  
(Plans), the Planning Inspectorate, **Councillor  
Izzi Seccombe**, Chairman, Community  
Wellbeing Board, Local Government Association  
and Leader of Warwickshire County Council,  
and **Trudi Elliott**, Chief Executive, Royal Town  
Planning Institute

[Q53–88](#)

**Clare Devine**, Executive Director of Architecture  
and the Built Environment, the Design Council,  
**Julie Fleck OBE**, MRTPI, Project Lead, Built  
Environment Professional Education Project  
Board, **Simon Turton**, Chair, National Register  
of Access Consultants, and **Stephen Ware**, Royal  
Institute of British Architects

[Q89–105](#)

## Wednesday 7 December 2016

<b>Bob Ledsome</b> , Deputy Director, Building Regulations and Standards, Department for Communities and Local Government, <b>Jennifer Peters</b> , Strategic Planning Manager, Greater London Authority, <b>Andrew Gibson</b> , Vice Chair, Habinteg, <b>Nick Rogers</b> , Design Director for Taylor Wimpey, Home Builders Federation	<a href="#">Q106–</a> <a href="#">155</a>
<b>Lord Holmes of Richmond MBE</b> , <b>Andrew Hugill</b> , Director of Policy and Technical Affairs, Chartered Institution of Highways and Transport, and <b>Benjamin Hamilton-Baillie</b>	<a href="#">Q156–</a> <a href="#">190</a>

## Wednesday 1 February 2017

<b>Gavin Barwell MP</b> , Minister of State, Department for Communities and Local Government, <b>Bob Ledsome</b> , Deputy Director, Building Regulations and Standards, Department for Communities and Local Government, and <b>Andrew Jones MP</b> , Parliamentary Under-Secretary of State, Department for Transport	<a href="#">Q191–</a> <a href="#">251</a>
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## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

DBE numbers are generated by the evidence processing system and so may not be complete.

- 1 Access Association ([DBE0057](#))
- 2 Adrian Whyatt ([DBE0051](#))
- 3 Age UK ([DBE0156](#))
- 4 Aldridge Prenton ([DBE0088](#))
- 5 Angela Cavill-Burch ([DBE0001](#))
- 6 Anne Jerman ([DBE0024](#))
- 7 Around the Toilet ([DBE0087](#))
- 8 Aspire ([DBE0026](#))
- 9 Berkshire Disabled People Against Cuts ([DBE0045](#))
- 10 BESiDE Research Project ([DBE0008](#))
- 11 Bob Goodall ([DBE0089](#))
- 12 Bradford & District Strategic Disability Partnership ([DBE0139](#))
- 13 Bristol Disability Equality Forum ([DBE0078](#))
- 14 British Healthcare Trades Association ([DBE0113](#))

- 15 British Parking Association ([DBE0148](#))
- 16 British Standards Institution ([DBE0119](#))
- 17 BSI Committee B/559 ([DBE0084](#))
- 18 Built Environment Professional Education Project Board ([DBE0191](#))
- 19 Built Environment Professional Education Project Board ([DBE0112](#))
- 20 Byron Konizi ([DBE0105](#))
- 21 Cambridge Cycling Campaign ([DBE0181](#))
- 22 Cambridgeshire Alliance for Independent Living ([DBE0058](#))
- 23 Care & Repair England ([DBE0053](#))
- 24 Carole Holmes MBE ([DBE0022](#))
- 25 Caroline Balhuizen ([DBE0005](#))
- 26 Carolyn Stolls ([DBE0020](#))
- 27 Centre for Accessible Environments ([DBE0102](#))
- 28 Centre for Ageing Better ([DBE0003](#))
- 29 Centre for Housing Policy ([DBE0093](#))
- 30 Challenging Behaviour Foundation ([DBE0091](#))
- 31 Chartered Institute of Building ([DBE0120](#))

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- 32 Chartered Institute of Logistics and Transport in the UK ([DBE0180](#))
- 33 Chartered Institution of Highways & Transportation ([DBE0118](#))
- 34 College of Occupational Therapists Specialist Section in Housing ([DBE0076](#))
- 35 Constantinos Regas ([DBE0137](#))
- 36 Councillor Douglas Johnson ([DBE0135](#))
- 37 Councillor Martin Round ([DBE0079](#))
- 38 Darlington Association on Disability ([DBE0012](#))
- 39 David Hunter ([DBE0019](#))
- 40 David M Bates ([DBE0157](#))
- 41 Department for Communities and Local Government ([DBE0189](#))
- 42 Department for Communities and Local Government ([DBE0192](#))
- 43 Department for Communities and Local Government ([DBE0124](#))
- 44 Design Council ([DBE0125](#))
- 45 Disability Action Wyre Forest ([DBE0077](#))
- 46 Disability Dynamics ([DBE0042](#))
- 47 Disability Involvement Group ([DBE0142](#))

- 48 Disability Stockport ([DBE0007](#))
- 49 Disabled Persons Transport Advisory Committee ([DBE0055](#))
- 50 Dr Carolyn Voisey ([DBE0082](#))
- 51 Dr Linda Miller ([DBE0090](#))
- 52 Dr Pam Thomas ([DBE0098](#))
- 53 Dr Rachael Luck PhD RIBA ([DBE0169](#))
- 54 Dr Rachel Aldred ([DBE0132](#))
- 55 East Dunbartonshire Visually Impaired People's Forum ([DBE0145](#))
- 56 East Sussex Association of Blind & Partially Sighted People User Group ([DBE0143](#))
- 57 Equal Lives ([DBE0107](#))
- 58 Gloucester Hard of Hearing Club ([DBE0048](#))
- 59 Gosport Access Group & Disability Forum ([DBE0117](#))
- 60 Greater London Authority ([DBE0106](#))
- 61 Guide Dogs ([DBE0114](#))
- 62 Guide Dogs Ashford ([DBE0072](#))
- 63 Habinteg ([DBE0100](#))
- 64 Hft ([DBE0104](#))
- 65 Historic England ([DBE0060](#))

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- 66 Home Builders Federation ([DBE0111](#))
- 67 Housing Law Practitioners Association ([DBE0065](#))
- 68 Hull Access Improvement Group ([DBE0173](#))
- 69 IBI Group ([DBE0115](#))
- 70 Inclusion London ([DBE0190](#))
- 71 Inclusion London ([DBE0097](#))
- 72 Inclusion Scotland ([DBE0010](#))
- 73 Independent Lives ([DBE0101](#))
- 74 Institution of Civil Engineers ([DBE0071](#))
- 75 Kingston Visual Impairment Parliament ([DBE0134](#))
- 76 Later Life Ambitions ([DBE0108](#))
- 77 Laura Rutherford ([DBE0159](#))
- 78 Leicester Disabled People's Access Group ([DBE0131](#))
- 79 Leicester Disabled People's Access Group ([DBE0066](#))
- 80 Liverpool Hope University ([DBE0014](#))
- 81 Living Streets ([DBE0056](#))
- 82 Local Government Association ([DBE0070](#))
- 83 Lochaber Disability Access Panel ([DBE0031](#))
- 84 London Autistic Rights Movement ([DBE0130](#))
- 85 Lord Holmes ([DBE0073](#))

- 86 Lorna Fillingham ([DBE0052](#))
- 87 Martin Cassini ([DBE0096](#))
- 88 Mental Health Foundation ([DBE0094](#))
- 89 Miss Gill Sheppard ([DBE0154](#))
- 90 Motor Neurone Disease Association ([DBE0064](#))
- 91 Mr Alan Morey ([DBE0133](#))
- 92 Mr Alasdair Guest ([DBE0074](#))
- 93 Mr Benjamin Hamilton-Baillie ([DBE0067](#))
- 94 Mr Bill Waddell ([DBE0153](#))
- 95 Mr David Hicks ([DBE0049](#))
- 96 Mr Doug Paulley ([DBE0186](#))
- 97 Mr John Frith ([DBE0037](#))
- 98 Mr John Monniot ([DBE0146](#))
- 99 Mr Karl Farrell ([DBE0144](#))
- 100 Mr Ken Miles ([DBE0141](#))
- 101 Mr Mark Tilsley ([DBE0041](#))
- 102 Mr Michael Broderick ([DBE0179](#))
- 103 Mr Mike Brace ([DBE0034](#))
- 104 Mr Nick Gradwell ([DBE0044](#))
- 105 Mr Philip Barton ([DBE0050](#))

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- 106 Mr Richard West ([DBE0152](#))
- 107 Mr Roger Cannon ([DBE0167](#))
- 108 Mr Ronald Koorm ([DBE0027](#))
- 109 Mr Ross Atkin ([DBE0138](#))
- 110 Mr Stephen Belcher ([DBE0063](#))
- 111 Mr Vaughan Rees ([DBE0188](#))
- 112 Mr Victor Jackson ([DBE0163](#))
- 113 Mrs Helen Dudden ([DBE0011](#))
- 114 Mrs Jennifer Saunders ([DBE0017](#))
- 115 Mrs Jill Allen-King OBE ([DBE0040](#))
- 116 Mrs Josie Iles ([DBE0155](#))
- 117 Mrs Rachel George ([DBE0062](#))
- 118 Mrs Susan Cunningham ([DBE0006](#))
- 119 Mrs Susan Davies ([DBE0023](#))
- 120 Ms Ann Skippers ([DBE0080](#))
- 121 Ms Barbara Walker ([DBE0166](#))
- 122 Ms Gillian Taggart ([DBE0168](#))
- 123 Ms Hazel Macfarlane ([DBE0150](#))
- 124 Ms Jane Sellers ([DBE0171](#))
- 125 Ms Janice Long ([DBE0140](#))

- 126 Ms Julie Fleck ([DBE0083](#))
- 127 Ms Margaret Hutchison ([DBE0164](#))
- 128 Ms Marianne Scullion ([DBE0174](#))
- 129 Ms Pam Dixon ([DBE0170](#))
- 130 Ms Rona Topaz ([DBE0092](#))
- 131 Ms Sarah Gayton ([DBE0184](#))
- 132 Ms Sarah Gayton ([DBE0185](#))
- 133 Muscular Dystrophy UK Trailblazers ([DBE0127](#))
- 134 National Register of Access Consultants ([DBE0081](#))
- 135 Newcastle Disability Forum ([DBE0030](#))
- 136 NFBUK Leeds Branch ([DBE0038](#))
- 137 Norfolk & Norwich Association for the Blind ([DBE0054](#))
- 138 Patons of Shifnal ([DBE0151](#))
- 139 Paul Leonard-Williams ([DBE0187](#))
- 140 Paul Milton ([DBE0028](#))
- 141 People First (Self Advocacy) ([DBE0183](#))
- 142 Peter Mitchell ([DBE0016](#))
- 143 Professor Arnold Wilkins ([DBE0013](#))

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- 144 Professor Catharine Ward Thompson, Director of OPENspace Research Centre, University of Edinburgh ([DBE0069](#))
- 145 Public Realm Information and Advice Network ([DBE0068](#))
- 146 Public Toilets UK ([DBE0033](#))
- 147 Pupils 2 Parliament ([DBE0126](#))
- 148 RIBA ([DBE0121](#))
- 149 RNIB ([DBE0110](#))
- 150 Rooms of our Own ([DBE0182](#))
- 151 Royal Institution of Chartered Surveyors ([DBE0177](#))
- 152 Royal Town Planning Institute ([DBE0122](#))
- 153 Schumacher Institute for Sustainable Systems ([DBE0061](#))
- 154 Scottish Disability Equality Forum ([DBE0095](#))
- 155 SeeAbility ([DBE0109](#))
- 156 Sense ([DBE0103](#))
- 157 Sheffield Access Liaison Group ([DBE0099](#))
- 158 Sheila Peace, Emeritus Professor in Social Gerontology at the Open University ([DBE0059](#))
- 159 Sport England ([DBE0165](#))
- 160 Stephanie Swain ([DBE0032](#))
- 161 Stirling Access Panel ([DBE0116](#))

- 162 The Kennel Club ([DBE0175](#))
- 163 Thomas Pocklington Trust ([DBE0123](#))
- 164 Unity Law ([DBE0160](#))
- 165 Urban Design Group ([DBE0158](#))
- 166 Vaila Morrison ([DBE0085](#))
- 167 VISION 2020 UK ([DBE0075](#))
- 168 Wheels for Wellbeing ([DBE0086](#))
- 169 World of Accessible Toilets Project ([DBE0036](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2015–16

First Report	Transgender Equality	HC 390
Second Report	Gender Pay Gap	HC 584 (HC 963)
Third Report	Appointment of the Chair of the Equality and Human Rights Commission	HC 599

## Session 2016–17

First Report	Pregnancy and maternity discrimination	HC 90 (Cm 9401)
Second Report	Employment opportunities for Muslims in the UK	HC 89 (Cm 9371)
Third Report	Sexual harassment and sexual violence in schools	HC 91 (HC 826)
Fourth Report	Equalities analysis and the 2015 Spending Review and Autumn Statement	HC 825 (HC 974)
Fifth Report	Women in the House of Commons after the 2020 election	HC 630
Sixth Report/ First Joint Report	High heels and workplace dress codes	HC 291 (HC 1147)
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Report	Response to the First Joint Report of the Petitions Committee and the Women and Equalities Committee of Session 2016–17	