**Equality and Human Rights Commission**

# Minutes of the eighth meeting of the Disability Advisory Committee

Thursday 2 May 2019, 10:30am to 3:15pm

# Present

## Committee Members

Rachel Perkins – Chair

Simone Aspis

Marsali Craig - Scotland Committee Representative

Fazilet Hadi

Maddy Kirkman

Liz Sayce

Michèle Scattergood (by videoconference)

Nick Watson

Colin Young

## Officers

Stephanie Davin: Senior Associate, Policy Secretariat (Item 7)

Rachel Fox: Senior Associate, Treaty Monitoring and Disability Protected Characteristic Lead (Item 5)

Kathleen Jameson: Senior Associate, Programmes (Item 10)

Annika Joy: Principal, Strategy and Business Planning (Item 6) by videoconference

Louisa Kane: Senior Associate, Communications (Item 10) by videoconference

Melanie Field: Executive Director, Wales, Corporate Strategy and Policy

Callum MacInnes: Principal, Corporate Governance (Item 6) by videoconference

Graham Wheaton: Senior Associate, Corporate Governance (DAC Secretary)

Eleanor Williams: Principal, Legal (Item 9) by videoconference

## 1 Welcome and apologies for absence

1.1 Rachel Perkins welcomed everyone to the eighth meeting of the Disability Advisory Committee.

1.2 Apologies had been received from Marc Bush, Sarah Coleman, Helen Chipchase, Miro Griffiths, Anna Lawson, Colin Low, Martyn Jones and Caroline Waters.

## 2 Declarations of interest

2.1 There were no declarations of interest additional to those already declared.

**Governance Matters**

## 3 Minutes of the seventh Disability Advisory Committee meeting

3.1 Members agreed the minutes of the meeting of the seventh meeting of the Disability Advisory Committee **(DAC 08.01)**.

## 4 Actions arising

4.1 Members reviewed the actions arising **(DAC 08.02)** and were pleased with progress. They:

a) heard that under Action 4.1a, the subject of assisted dying had been discussed at length by the Board and the position would be reported in the Board minutes in due course. Officers agreed to share the Board paper with members for comment;

**ACTION: Charlie Hamilton** to ensure that the Board paper was shared with members for comment.

**ACTION: Members** to email any comments on this to the Secretary.

b) commented that, on Action 4.1a, as the paper had not yet been received, it had not been possible to comment on this therefore the action should remain open for the time being;

**ACTION: Secretary** to reopen action 4.1a from the seventh meeting.

c) noted that, in relation to the Cabinet Office project on disability, the Commission had replied to the request with a pared back response. Following a meeting between Cabinet Office and officers, an announcement on the project may be forthcoming in June 2019. The Cabinet Office project leads would be arranging meetings with different Government department heads in the coming weeks to discuss the project.

**ACTION Rachel Fox** to send more information to members by email when it is available.

4.2 Members requested that they be updated on action 4.1b of the sixth DAC meeting, which had been marked as complete. It was in relation to a recommendation by the Committee “to contact Healthwatch (HW) England, to alert local HW around England to the issue in order to promote good CCG practice and to identify other examples where CCGs were jeopardising independent living through funding caps in continuing healthcare”. Specifically the request was to review how CCGs were performing given that they had implemented new policies and what improvements they had made.

**ACTION: Joanna Owen** to a) provide the Committee with an update by email and b) bring it back to the Committee at its next meeting on 17 July 2019.

**Strategic Issues**

## 5 Independent Living

5.1 Rachel Fox presented the Commission’s work in relation to incorporating the right to independent living into domestic law **(DAC 08.03)**, and thanked the Committee for its continued support and input into this work. The Committee thanked Rachel and Joanna Owen for providing a very well written paper.

5.2 Members strongly welcomed the paper and noted that several iterations of the paper had been presented to the Committee over the last two years for scoping and consultation purposes. While extensive consultation and input from Counsel had gone into the paper to get it to this point, the latest iteration was still entitled ‘working paper’ to make it clear that it was still open to further views. It was also noted that this working paper had been submitted to the Joint Committee on Human Rights as evidence to its inquiry into the detention of children and young people with learning disabilities and autism, and to Cabinet Office officials working on a potential disability related project. It would also be shared with the Independent Living Strategy Group – who had been consulted throughout – imminently. In addition, further discussions would take place with colleagues in Scotland and Wales about applying or adapting it to those contexts.

5.3 Members commented that:

a) more needed to be done to close down existing institutions, not just stopping new ones being created, and it was important to promote disinvestment in institutions and reinvestment in housing. Reinvestment was not being seen in other areas of support;

b) it was important to include something that required year on year reductions in detentions and a year on year increase in reinvestment in the community;

c) Independent living was about more than social care and community living, which could potentially be better reflected;

d) a preventative duty on local authorities could be considered, and they could also include market development/shaping in their thinking;

e) ;

f) it was important to make it explicit which ages this would cover, as those who are older or younger were sometimes excluded and consideration only given to ‘working age’ ;and

g) Unregulated and unsupported care in the community was a major issue and it was important to work this into a broader influencing strategy setting out the opportunities for taking it forward.

5.4 Members were pleased that officers would consider all the comments provided, including whether some of them could be captured within the Public Sector Inclusion Objective or via policy rather than legal avenues. Officers also confirmed that an influencing strategy was being drafted and that it would be shared with the Committee sub-group for comment as soon as possible.

**ACTION: Rachel Fox** to share more detail with the DAC Independent Living sub-group in due course, including a draft of the influencing strategy.

5.5 The Committee thanked Rachel and Joanna for their continued commitment to this area of work.

## 6 Committee involvement on the Strategic Plan

6.1 Callum MacInnes introduced the paper on the Committee’s involvement in the Strategic Plan **(DAC 08.04)**. The purpose of this paper was to set out the types of activity that would be undertaken, as part of this year’s business plan, in support of the Strategic Plan’s Priority Aims. Members were asked to indicate which areas of work they felt that they would be interested in supporting through the ‘Board buddying’ scheme. Members were advised that changes to the Buddying programme were to be discussed at the Board meeting on 22 May 2019 and, as such, they should be aware that the arrangements discussed at the meeting may be subject to change.

6.2 The Committee welcomed the opportunity to get an understanding of the Business Plan activities at an early stage, given their input to the Strategic Plan. They understood that this was the plan for year one of three and that two further plans, informed by the work on this one and other sources would follow in the next two years.

6.3 Members commented that it would seem more appropriate to express interest at Priority Aim level, rather than individual projects. They noted that they had found this approach to have worked well previously and that it allowed a broader range of expertise to be applied in respect of each area of work. They understood that this approach could work, as long as it did not become over burdensome on Priority Aim Leads, given that Board members and members of other Committees would have interests in a similar manner.

6.4 The Committee agreed to review the Priority Aims and feedback their preferences to the Committee Chair. It was suggested that each member wishing to take part in the buddying scheme identify their two preferred aims. It was further agreed that those that wished to express an interest in more than two aims could do so but would need to indicate their order of preference.

**ACTION Annika Joy** to send a table of the core and priority aims to members for preferences response by 24 May 2019 to Rachel Perkins.

# 7 **Consultation on social values in Government procurement**

7.1 Stephanie Davin spoke to the paper that detailed a consultation on social values in Government procurement **(DAC 08.05)** and advised that the Commission would be drafting a response. The consultation opened on 11 March 2019 and closed on 10 June 2019. There were four questions within the consultation and the Commission would mainly focus on questions one and two.

7.2 Members thanked Stephanie for bringing this to the attention of the Committee, commenting that:

a) it might be overwhelming for a small business to be suddenly asked to report on these areas. It would be best to be pragmatic and start with protected characteristics that were more easily reportable such as sex, race and disability that would assuage the reporting requirement;

b) there were good examples of how this could work that had been piloted in Scotland, such as City Deals and Investment in Equality, the latter of which was being passed on to partners to take forward; and

**Action: Marsali Craig** to circulate Scotland Committee paper on City Deals to members.

c) in regions such as Manchester Social Value had a 20% weighting for Local Authority procurement. There was a strong emphasis within this of setting objectives to employ local people and those who face more barriers to employment .Voluntary, Community and Social Enterprises and Disabled People’s Organisations had been working with Manchester City Council to encourage targets and objectives and supported the naming of disabled people as one of the groups facing significant barriers to employment.

7.3 Members felt that there might be potential to incorporate penalties on contractors that did not achieve outcomes as detailed in contracts and that the response should also consider and respond to question three of the consultation. They understood that public procurement could be extremely complicated and that getting a proportionate sanction was key.

**ACTION: Stephanie Davin** to share the full consultation response with members for information.

7.4 The Committee thanked Stephanie for bringing this work to the Committee as soon as was practicable.

## 8 Examination malpractice

8.1 Rachel Perkins reported that she had received an email from Caroline Waters that could be of interest to members. It related to an ongoing investigation into examination malpractice, which raised concerned around access arrangements and accessibility for examinations. There was very little variety around arrangements and it was found that there were big differences in practices between public and state schools.

**Action: Secretary** to share Caroline’s email with members.

**Action: Members** to advise Caroline if they wish to contribute to any response or are able to provide links to other organisations that might be of interest.

## 9 Sub-group reports to the Committee

**CEO and Board**

9.1 Melanie Field introduced the CEO and Board report **(DAC 08.06)**.

9.2 Members had reviewed the report and noted in addition that:

a) under the reorganisation changes reported at the last meeting, the Commission was establishing:

* a new enforcement team, within the legal directorate;
* a new compliance team, headed by Laura Lucking, would focus on inquiries and proactive work aimed at a sector or issue to promote better compliance:
* a new policy directorate, headed by Alasdair Macdonald, that would build policy and influencing strategies; and
* a new strategy hub, which would be part of the new Strategy and Governance directorate.

**Action: Secretary** to provide members with an updated organogram when available.

b) there were two ongoing and one potential investigations that the Commission was working on which were:

* Anti-Semitism in the Labour Party. The current position was that a lot of evidence had been received. The Commission had written to Labour Party and was now considering their response. There would be a report, recommendations and, if necessary, enforcement in the County Court;
* Windrush. David Lammy MP’s letter had now been received by the Commission, although it had been reported on in the media before it was sent. We were considering how the action requested related to our powers and the Home Office-commissioned Windrush Review;
* Islamophobia in the Conservative Party. A complaint had been received by the Commission from Baroness Varsi. It was in the early stages and was being checked to confirm whether the threshold to take any further action or launch an investigation had been breached.

c) The Women and Equalities Select Committee inquiry was still ongoing. The Commission had submitted written evidence and would provide oral evidence at the beginning of June. Evidence would be provided by officers next week on the broader Access to Justice part of the inquiry.

9.3 Members asked whether there had been any external feedback on the restraint project output and heard that it had been shared with the Care Quality Commission and that they were using it heavily in their review of segregation and restraint. There was a sense that it had been very well received.

9.4 Members asked whether Healthcare in relation to Asylum Seekers, where they were disabled, was an area of interest to the Commission and whether there were any statistics on disabled asylum seekers.

**Action: Rosie Wallbank** to provide details of the lead on asylum seekers to Nick Watson.

9.5 Members noted that ‘Inside Government’ had reported on a speech by the Chair on ‘Freedom of Speech’ in higher education and referred to the Commission’s recently published guidance in this area.

**Action: Secretary** to provide a link to the guidance to members.

**Scotland Committee**

9.6 Members heard from Marsali Craig that the Commission in Scotland was leading the way in the area of City Deals work. This work has shown a lot of promise in the areas of transport and housing. Marsali drew attention to the position in Scotland, where the Scottish Human Rights Commission have responsibility for work on human rights. Any work that the Commission wants to do on human rights in Scotland, therefore, cannot be commenced without their formal permission. A good relationship has been developed with them but most work in Scotland focuses on equality related issues.

9.7 Members noted that the Scottish Government was reviewing PSED and that a great deal of work was being done around transport accessibility and equal access.

9.8 The Scotland Committee were keen to engage with DAC and there was an open invitation to DAC members from Scotland to work with the Scotland Committee on relevant pieces of work, although all members were welcome to attend Scotland Committee meetings.

**Wales Committee**

9.9 Melanie Field spoke on behalf of the Wales Committee, confirming that there were synergies between the two countries in the work on transport that was being taken forward in Scotland.

**Legal**

9.10 The legal report **(DAC 08.07)** was presented by Eleanor Williams. Members were very pleased to see that their request for a regular legal report had been acted on and thanked Eleanor for an informative and well written report that provided good examples of impact.

9.11 Members heard that cases listed in the report were followed up through a process within the Prioritisation Group to ensure that outcomes were adhered to.

9.12 Members also heard that that the Commission was looking to publicise more cases, dependent on the terms of settlement. To this end, a new communications partner had been engaged. Members commented that it could be beneficial for the Commission to provide some targeted feedback to organisations such as Mind and Rethink.

## 10 Reasonable adjustments update

10.1 Kathleen Jameson and Louisa Kane presented two videos that had been produced following advice and feedback that had been received from DAC members at a previous meetings.

10.2 Members praised the work done and thought that the videos were excellent, commenting that they contained great energy, tone and positivity and that they liked their breadth, clarity and simplicity.

10.3 Members noted that there had been over 7k views on social media within the first week and it had been re-tweeted well in Scotland and Wales. Further distribution was planned and members suggested organisations such as Disability Confident, Purple Space, NHS and Trades Unions might be good avenues to explore. Members also noted that there was work going on with positive action in apprenticeships.

**Action: Louisa Kane** to share information on work on positive action in apprenticeships with Simone Aspis.

## 11 Members’ Horizon Scanning

11.1 Rachel Perkins reported that there was an issue that the Commission may want to be alert to around homeowners who become disabled and moving on to interest only mortgages and then having to sell homes due to mortgage companies wanting to regain capital.

11.2 Simone Aspis advised members that the Alliance for Inclusive Education (ALfIE) were involved in a SEND action High Court case - ‘Disabled children v Secretary of State for Education and Chancellor of the Exchequer’ and encouraged members to attend on Wednesday and Thursday 26 and 26 June 2019.

## 12 Any other business

12.1 Members requested of other members that, when replying to emails, consideration be given to not using the ‘Reply All’ facility unless it was felt necessary to keep all members in the chain of emails. It was further requested that where the subject content changed that a new email chain be started rather than changing the subject line of the email.

12.2 Member commented that the system the Secretary employed of heading emails ‘FOR INFORMATION’ and ‘FOR ACTION’ worked well and asked if this could be used by other Commission staff when writing to DAC members.

**Action: Secretary** to include a note in the weekly all staff bulletin to raise awareness of this issue.

12.3 With no other business matters being raised, Rachel Perkins thanked attendees. The next Committee meeting date would be 17 July 2019.

Agreed by the Committee at its meeting of 17 July 2019

Rachel Perkins, Chair