



**Question for short debate - Lord Shinkwin to ask Her Majesty's Government what assessment they have made of the case for a disability commissioner on the Equality and Human Rights Commission**

**House of Lords**

**10 May 2018**

**Introduction**

The Equality and Human Rights Commission (the Commission) has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

This briefing, in contribution to the debate on the case for a disability commissioner on the Commission, provides an overview of the way we structure and deliver our work to promote the rights of disabled people, the role the Commission's Disability Advisory Committee (DAC) and an overview of selected recent and planned work to advance the rights of disabled people and combat disability discrimination.

**Executive Summary**

The Commission believes that its efforts to tackle the barriers facing disabled people should be embedded in all of its work. We structure and

deliver our work according to areas of life or ‘domains’ such as health, education, justice and personal security. This enables us to strategically address the impact of the law, policy or practices in particular areas of life on people who share a protected characteristic or who have multiple protected characteristics and identities. Officers are identified to champion our work on each protected characteristic within this model and maintain oversight of how our domain work reflects the specific needs of people who share protected characteristics, including disabled people.

The Commission previously identified a Disability Commissioner who chaired the former statutory Disability Committee and took a lead on some disability projects. This approach treated work on disability separately from other work programmes. It also led to work on disability being seen as the responsibility of specific individuals in the Commission rather than the collective responsibility of the Board and organisation as a whole.

In 2017 we moved away from having just one named champion of disability rights on the Board (the former role of Disability Commissioner), so that all Board members now share the responsibility to champion disability issues.

The Board also benefits from the advice of a dedicated Disability Advisory Committee (DAC), comprised of 14 experts who have a broad range of experience in advancing disabled people’s rights and a proven track record of driving change and making a positive impact at the highest level. The Board and the DAC maintain strong links to ensure that the expertise of the DAC can be applied across the full range of the Commission’s activities. Individual DAC members may also be invited by the Commission to play a specific role in, or advise on, areas of work where their personal skills, expertise or networks are of particular value to a project.

Over the last 18 months we have undertaken a wide range of work to promote the rights of people with disabilities and combat disability discrimination. Highlights include publishing the report “Being disabled in

Britain: A journey less equal”, the most comprehensive analysis ever on how the rights of disabled people are protected in Great Britain. We also launched a Legal Support Project providing funding and legal assistance to help individuals who have experienced disability discrimination to pursue their claims and access justice. At least a third of the strategic cases the Commission supported or intervened in, in the last year, were either partly or wholly related to disability discrimination. Section 5 of this briefing provides an overview of other headline work. Looking ahead, we have a number of ambitious projects to advance the rights of disabled people in our 2018-19 Business Plan that are integrated throughout our work and set out in Section 6 of this briefing.

## **1. The Commission: how we structure and deliver our work to promote the rights of disabled people**

The Commission believes that its efforts to tackle the barriers facing disabled people should be embedded in all of its work. The Commission’s strategic plan sets out the key issues it will address across all areas of life – or ‘domains’ – such as healthcare, education, work and living standards. Each of these domains is supported by a dedicated team charged with addressing the key challenges facing particular groups, including disabled people.<sup>1</sup>

This ‘domain-based’ model was embedded in the Commission’s approach during 2017, to enable a strategic approach to address the impact of the law, policy or practices in particular areas of life on people who share a protected characteristic or who have multiple protected characteristics and identities.

Our domain working is also supported through a ‘Board Buddying’ scheme whereby individual Commissioners are allocated to provide support and advice to domain teams based on their expertise, networks and skills.

The Commission has also identified officers who lead our work on each protected characteristic, including disability. These officers use their

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<sup>1</sup> Further information about planned work related to the rights of disabled people under each area of life or ‘domain’ is provided further below under section 6.

expertise, knowledge of the issues and strategic stakeholder engagement to provide insight to the Commission's work.

## 2. The Disability Advisory Committee (DAC)

The DAC brings expertise and knowledge of disability issues, including through lived experience, to inform the Commission's work to protect and promote rights and equality for disabled people.

The Committee has just been strengthened with the addition of eight new members, bringing the total membership of the Committee to 14. The majority of the Committee are disabled people.

Now that the Committee has its full complement of members, it shall identify a chairperson from within its membership.

The fourteen members of the DAC are:

- **Dr Rachel Perkins**, (interim Chair), freelance consultant and a member of the Implementing Recovery through Organisational Change project team, Chair of the Department of Health Working Group on Equalities in Mental Health
- **Simone Aspis**, Policy and Campaigns Coordinator at Alliance for Inclusive Education
- **Dr Marc Bush**, Chief Policy Advisor at YoungMinds, visiting professor of Public Health at the University of Northampton
- **Helen Chipchase**, consultant, former Chair of the UK Department for Work and Pension's Disability Employer Engagement Steering Group
- **Sarah Coleman**, Policy Officer for Mencap
- **Miro Griffiths**, Adviser at the Department for Work and Pensions and Department of Health
- **Fazilet Hadi**, former Director at the RNIB
- **Maddy Kirkman**, Research and Development with Cyrenians
- **Anna Lawson**, professor in Law at the University of Leeds and deputy director of the University's interdisciplinary Centre for Disability Studies

- **Colin Low**, Baron Low of Dalston, CBE, Vice-President of the RNIB and former Chairman
- **Liz Sayce**, former CEO of Disability Rights UK
- **Michele Scattergood**, Chief Executive of Breakthrough UK
- **Nicholas Watson**, Professor of Disability Research in the School of Social and Political Sciences and Director at the Centre for Disability Research at the University of Glasgow
- **Colin Young**, Senior Policy and Outcomes Officer for Self-directed Support at the Health and Social Care Alliance.

From influencing government policy, to working to protect disabled people's rights to independent living and playing an active role with organisations of and for disabled people, the committee members have a proven track record of driving change and making a positive impact at the highest level. Their unique knowledge and broad range of experience in advancing disabled people's rights through engagement, research and policy help inform decision-making across all of the Commission's work.

### **3. How the DAC relates to the EHRC Board of Commissioners**

The DAC maintains strong links with the Board of Commissioners in order to keep informed of the Commission's activities and input in to them as appropriate. This is achieved through receipt of regular reports from the Board at each of its meetings, sight in advance of Board agendas, regular attendance of Board members at its meetings and the attendance of DAC members at Board meetings, where there are agenda items of specific interest to the Committee. Similar arrangements are also in place in respect of the work of the Statutory Scotland and Wales Committees, ensuring that the expertise of the DAC can be applied across the full range of the Commission's activities.

The Board maintains oversight of the work of the DAC through receipt of the minutes of its meetings and sight in advance of DAC meeting agendas. It may invite reports from the DAC on particular issues and request the attendance of Committee members to observe or participate in discussions at Board meetings where appropriate. The Commission also carries out regular, six monthly, effectiveness reviews of the DAC in discussion with the DAC members. These are an opportunity to reflect

on ways of working and to recommend any changes necessary to facilitate the effective and efficient contact of the DAC's business.

Individual DAC members may also be invited by the Commission to play a specific role in, or advise on, areas of work where their personal skills, expertise or networks are of particular value to a project.

#### **4. Why was the decision taken not to have a 'Disability Commissioner'?**

The Equality Act 2006 requires the Board to include a Commissioner who is, or has been a disabled person; but it does not (and never has) required an identified disability commissioner.

Nevertheless, following the Commission's establishment, and the transition from the legacy Disability Rights Commission, the Commission identified a Disability Commissioner who chaired the former statutory Disability Committee<sup>2</sup> and took a lead on some (but not all) disability projects.

Whilst this approach provided some focus on disability issues, it was found to have the effect of treating work on disability separately from other work programmes. It also led to work on disability being seen as the responsibility of specific individuals in the Commission rather than the collective responsibility of the Board and organisation as a whole. This, it is believed, led to some miscommunication as well as missed opportunities.

Changes were therefore made to the Commission's ways of working designed to strengthen, rather than weaken, its approach to advancing disability rights. These included moving away from having just one named champion of disability rights on the Board (the former role of Disability Commissioner), so that all Board members, including a disabled Commissioner, Caroline Waters, now share the responsibility to champion disability issues.

The Board also benefits from the advice of the DAC whose members use their expert knowledge, skills and experience on disability issues to

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<sup>2</sup> The statutory Disability Committee was dissolved on 31 March 2017 by an order made under the Equality Act 2006.

inform and advise the Commission's work to protect and promote the rights of disabled people.

## **5. Our track record: highlights of the Commission's work to support disability rights over the last 18 months**

The Commission has undertaken a wide range of work to promote the rights of people with disabilities and combat disability discrimination over the last 18 months. Over the last 18 months we have:

- Published "[Being disabled in Britain: A journey less equal](#)", the most comprehensive analysis ever on how the rights of disabled people are protected in Great Britain.
- Launched a formal [inquiry on housing for disabled people](#), addressing whether the availability of accessible and adaptable housing, and the support services around it, is fulfilling disabled people's rights to live independently.
- Launched a [Legal Support Project](#) providing funding and legal assistance to help individuals who have experienced disability discrimination to pursue their claims and access justice. In total, we provided £189,000 for legal assistance across 94 cases in areas including employment, education and public services.
- [Pressed Premier League clubs](#) to ensure their grounds are accessible, securing significant progress.
- Started [judicial reviews against 13 Clinical Commissioning Groups](#) on their 'continuing healthcare' funding policies to ascertain the extent to which they are lawful and support disabled people's right to live independently in the community.
- Provided almost £100,000 funding for a project to produce a civil society disabled persons organisation (DPO) led report to the UN Committee on the Rights of Persons with Disabilities, and an additional £10,000 for disabled people to travel to Geneva and participate in the UN Committee's review of the UK and devolved governments.
- Produced accessible versions of the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities from October 2017, including an interactive PDF, an Easy Read summary and a British Sign Language video.

- At least a third of the strategic cases the Commission supported or intervened in, in the last year, were either partly or wholly related to disability discrimination.
- Our current [Legal Support Project](#) - on education, housing and social security – deals with primarily disability-related cases. It has had a significant impact for individual disabled people; for example since October 2017 we have successfully quashed the permanent exclusions of five disabled children from school.

## 6. Looking ahead: Work relevant to disability in the Equality and Human Rights Commission’s 2018-19 Business Plan

Disability is integrated throughout the Commission’s Business Plan. This includes our ‘infrastructure aims’, for example our aim to protect and enhance the rights of disabled people as we leave the EU; and an enhanced status for the UN Convention on the Rights of Persons with Disabilities (UNCRPD) in domestic law, in particular the right to independent living.

Our Legal Support Project provides front line legal support in relation to education, housing, and social services, and has had a strong focus on disability.

Our *Is Britain Fairer?* state of the nation report, to be published this Autumn, will provide a picture of disabled people’s rights in Great Britain. We will also be following up on the Concluding Observations made to the UK Government by the UN Committee on the Rights of Persons with Disabilities in 2017 concerning the UK’s implementation of commitments under the UNCRPD. Our planned work this year in relation to the UK’s commitments under UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the UN Convention Against Torture (CAT) will also be relevant to disabled people.

Alongside this, other key projects for each area of life or ‘domain’ are described below:

- **Participation**

**Political participation:** removing barriers and creating the conditions which will enable increased diverse political representation, including for disabled people.

**More accessible services:** monitoring and influencing the implementation of the UK and Scottish Governments' accessible transport plans and scoping opportunities to improve online public and financial service provision.

- **Justice and Personal Security**

**Criminal Justice:** protection of the rights of people with mental health problems and learning disabilities in the criminal justice system.

**Restraint:** reducing the use of restraint in healthcare and detention settings.

**Domestic Abuse and Violence:** influencing the UK Government's Domestic Violence and Abuse Bill.

**Hate Crime:** follow up activity to the development of new hate crime legislation in Scotland, active engagement with the Equality and Diversity Forum hate crime contact group and participation in the Home Office hate crime action plan review.

**Access to Justice:** addressing barriers to civil justice, including for disabled people.

- **Education**

**School exclusions inquiry:** examining the drivers and impacts of different types of school exclusions, and how and why they disproportionately impact on certain groups, including disabled children and children with special educational needs.

- **Health**

**Mental Health:** scoping a project with the [Behavioural Insights Team](#) to improve access to and uptake in England of Improving Access to Psychological Therapies; ensuring the Mental Health Act (1983) Review incorporates an equality and human rights focus; influencing the Adults with Incapacity Act Review in Scotland; and ensuring regulatory interventions maintain and build on existing rights.

- **Living standards**

**Cumulative impact assessment:** supporting the UK, Scottish and Welsh governments to assess the cumulative impact of social security and spending policies to ensure they do not impact disproportionately on certain groups, including disabled people.

**Socio-economic duty:** pressing for implementation of the socio-economic duty (Equality Act 2010) in England and Wales; researching impact within local authority areas in England of voluntary compliance with the socio-economic duty.

**Housing inquiry:** following up on the recommendations from our inquiry into the availability of accessible, adaptable housing and assistance.

**Grenfell tower inquiry:** highlighting the human rights and equality dimensions of the Grenfell Tower fire, including human rights and equality issues affecting disabled residents.

- **Work**

**Apprenticeships:** promoting the use of positive action in apprenticeships to improve access to work for disabled people including people with mental health conditions, and other groups.

**Flexible working:** supporting members of our business-led initiative, Working Forward, to develop flexible working policies and practices that benefit a range of groups, including people with mental health conditions.

**Reasonable adjustments:** informing employers across Britain on how to make reasonable adjustments for disabled employees, including those with mental health conditions.

**Disability pay gaps:** implementation of our 2017 pay gaps strategy, which includes disability pay gaps.

- **Asylum seekers and refugees**

**Map of rights:** co-production of a map of rights and information on how to access rights, with partners who work with asylum seekers and refused asylum seekers.

**Improving access to health rights:** Identifying opportunities to develop resources for frontline health professionals to ensure they better meet the needs of asylum seekers and refused asylum seekers, including

## **Further information**

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about the Commission's work at: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

For more information, please contact:

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