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

**From** <https://www.publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/631/63103.htm#_idTextAnchor004>

Summary

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 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 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.

# Conclusions and recommendations

## 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. (#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. (#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. (#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. (#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. (#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. (#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. (#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 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. (#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. (#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. (#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. (#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. (#68)

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. (#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. (#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. (#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. (#76)

17.We share concerns that there has been a loss of expertise on inclusive design and access at local level over recent years. (#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. (#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. (#84)

20.We recommend that the Government assist the Design Council in securing funding to deliver for an online Inclusive Design CPD module. (#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. (#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. (#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. (#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. (#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 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. (#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. (#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. (#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. (#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. (#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. (#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. (#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. (#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. (#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. (#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. (#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. (#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. (#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:

1. be developed with disabled people;
2. 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;
3. lay down consistent national standards so that disabled people can navigate, learn and independently use such schemes anywhere in the country;
4. be clear that safety and usability requirements, such as controlled crossings and kerbs, are not optional;
5. 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. (#181)

39.Adequate guidance is important, but individuals also need an accessible means to challenge decisions when such guidance is not adhered to. (#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. (#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. (#183)