**Introduction and summary**

1. This is the Disability Committee’s (DC) final report to the Board, highlighting key achievements and recommendations. The paper sets out what the last Disability Committee, formed in 2014, has achieved through:

* influencing the work of the Commission,
* its own initiatives, and
* the Disability Programmes team.

1. The Board should note the lessons learnt from the last DC, particularly how to ensure the views and concerns of stakeholders are properly understood so that they can inform the Commission’s work. This is particularly important because the Commission is developing its arrangements for stakeholder engagement, in order to ensure that the views of people with different protected characteristics can be taken into account more systematically in our work.
2. The DC’s experiences are illustrative of both good and not so good stakeholder relations. Whilst the final DC achieved much, the fact that it was a separate entity within the Commission sometimes led it to try to initiate work on its own account. Because this work subsequently failed to develop in the way it hoped, DC members sometimes felt frustrated. There were occasions when the Commission responded to the DC’s advice but did not say what it was doing or what the outcome was, adding to a sense that the DC and the Commission were sometimes on different pages. These experiences provide the Commission with an opportunity to improve future stakeholder arrangements, such as managing expectations and providing feedback.
3. DC members have welcomed the development of the Disability Advisory Committee (DAC) because it helps clarify their relationship with the Commission. Transparency will be the key to the success of these future working arrangements.

**Influencing and advising – strategic direction**

1. The DC made a number of helpful and influential interventions that influenced the Strategic Plan and Is Britain Fairer? 2015 (IBF), which provides much of the evidence upon which the Commission bases its strategic focus.
2. The DC helped to revise the language used in the Commission’s consultation about its Strategic Plan 2016-19 to give a better frame for the rights of people with mental health problems. These improvements drew praise from external stakeholders.
3. The DC has influenced the content of the current Strategic and Business Plans. For example, on the advice of DC, the Commission aims to reduce the use of restraint by creating a common, core human rights-based framework across criminal justice, health and adult social care. This will cover areas that need further scrutiny, such as chemical restraint and seclusion. This work is on-going.
4. After expressing concern about IBF’s coverage of key issues for disabled people, members sat on a working group to help produce the subsequent [Disability Report: Being Disabled in Britain – a journey less equal](https://www.equalityhumanrights.com/en/publication-download/being-disabled-britain-journey-less-equal). The report – which was the first of its kind - looked at the experiences and outcomes for people with different impairments. It concluded that the treatment of disabled people is ‘a badge of shame’ and they are treated as ‘second class citizens’. Working closely with the research team, the DC working group influenced the contents of the report and helped shape the executive summary.
5. The DC also helped set the tone for the Commission’s communications work on disabled people’s issues. For example, on International Day for Disabled People 2015, the Commission issued a press release, with a statement from the then Chair of the DC, Lord Holmes, saying how current policies and practices were contributing to the social isolation of disabled people. Subsequently, the new Chair of the Commission has made equally hard-hitting statements about the rights of disabled people. There is particular value from having access to disability experts from outside the Commission to advise on how to frame external communications.

**Influencing and advising – international work**

1. Given where we are in the reporting cycle for the Convention on the Rights of Disabled Persons (CRPD), it was extremely useful to have the expertise of the DC on hand to alert the Commission to issues and assist with the drafting of submissions.
2. The DC helped draft the Commission’s contribution to the UK Independent Mechanism’s suggestions to the UN CRPD committee for its list of issues, [Disability Rights in the UK](https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/un-convention-rights-persons-disabilities). In particular, the DC made specific contributions about chemical restraint and disability equality post-Brexit. The DC also stressed the importance of involving disabled people in monitoring the performance of the UK in implementing CRPD rights. Reflecting this influence, the final list of issues from the UN Committee did indeed ask the UK Government about the role that disabled people played in monitoring CRPD.
3. The DC steered the Commission’s response to the [UN Special Rapporteur’s inquiry on disabled people’s participation in public life](https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/un-convention-rights-persons-disabilities), ensuring that it focussed more on ‘pipeline issues’ such as entry points to local government and public office, e.g representation in the judiciary and on public boards.
4. Members of DC and the Interim Deputy Director of Disability Programmes gave evidence to the CRPD inquiry into the impact of the UK government’s welfare reform and employment programmes on disabled people. The Disability Programmes team was responsible for organising civil society evidence sessions in London and Manchester. This was the first time that the UN had launched an inquiry of this nature. The UN recommendations, which were widely reported, drew [a sharp response](http://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7367) from the UK government.

**Influencing and advising – legal and enforcement work**

1. The DC delegated its legal powers to the Commission’s Chief Legal Officer and the Regulatory Decision Making Panel (RDMP). However, it continued to exert direct influence on the Commission’s legal and regulatory work.
2. For example, after the DC identified financial exclusion as a priority, the Commission’s legal team took on board concerns about discriminatory treatment concerning the terms offered to disabled people when purchasing online tickets. As a result, the Society of Ticket Agencies and Retailers agreed to update their Code of Practice so that agencies and retailers are fully aware of their duty to make reasonable adjustments and other Equality Act 2010 obligations.
3. The DC’s concerns about the built environment in the wake of the 2012 Paralympics helped drive the Commission’s work on the accessibility of Premier League club stadiums. The Commission has asked questions about how accessible grounds are and made clear that, unless they make improvements, legal enforcement action may be taken against premier division clubs. The Commission is currently in discussion with a number of Premier League clubs about how they can improve their accessibility.
4. In response to a complaint, the Commission – aware of the DC’s interest in the built environment - also raised with Network Rail and the Office for Rail and Road the need to ensure access for disabled people to new rail infrastructure. There is now a process to do this, which is being rolled out.
5. In *Stott v Thomas Cook Tour Operators Ltd*, the Supreme Court found that the Montreal Convention (MC) prohibits any entitlement to an award of damages for discrimination when travelling by air, for all protected characteristics, globally. The decision called for international action to secure amendment to MC. The DC supported this call and subsequently the Commission adopted an international influencing strategy to put it into effect. The strategy involves communicating directly with the International Civil Aviation Organisation and raising the profile of the issue with Equinet, the European Disability Forum and the UN. It is worth noting that the issue of effective remedy was picked up in the CRPD’s Concluding Observations to the EU.
6. The DC had oversight in the important case of [*Paulley v First Group*](https://www.equalityhumanrights.com/en/legal-casework/paulley-v-firstgroup-plc) In this precedent-setting case, the Supreme Court established that bus companies must end ‘first come, first served’ policies, and do more to give priority to wheelchair users. The DC stressed that this case was not simply about buses but established important legal points. As a result, the Commission’s [website](https://www.equalityhumanrights.com/en/our-work/news/wheelchair-spaces-buses-must-be-priority-court-rules) highlights the main legal points and includes relevant quotes from the Supreme Court judges.

**Influencing and advising – consultation responses**

1. The DC had an important role in helping the Commission to shape consultation responses on the key issues facing disabled people. At times members were able to provide detailed input to drafts, based on their leading expertise in different areas.
   1. The DC had a major impact on the [Commission’s response](https://www.equalityhumanrights.com/en/legal-responses/consultation-responses) to proposals to reduce the scope of Disabled Students Allowance (DSA). Following DC advice, the Commission stressed the need for better support for students to negotiate reasonable adjustments, procurement of aids and a joined-up approach through Education Health and Care Plans. The response also highlighted the contribution of disabled people to our economy.
   2. As part of its focus on financial exclusion, the DC asked the Commission to contribute to the [House of Lords Financial Exclusion Committee](https://www.parliament.uk/business/committees/committees-a-z/lords-select/financial-exclusion/publications/). The Committee referred to the submission in its final report, published in March 2017.
   3. The DC contributed to the Commission’s response to the House of Lords Select Committee Inquiry into the provisions of the Equality Act 2010 and disability.
   4. The DC influenced the Commission’s [response to the Green paper on Health and Disability](https://www.equalityhumanrights.com/en/legal-responses/consultation-responses) using input from its stakeholder event in Swansea. The response expressed concern about the new Disability Confident scheme for employers, a message that came across clearly from those attending the event. The DC also drew the Commission’s attention to the evidence base on effective supported employment.

**Own initiative**

1. There were several initiatives taken up by the Commission which came from the DC.
2. Having identified the detention and restraint of children and young people with learning disabilities and autism in mental health detention as a priority, the DC asked the Commission to write the Secretary of State for health expressing the DC’s concerns about the issue and in particular a child whose physical and mental state had deteriorated in mental health detention. Since the letter was sent, the child has moved to a community setting. This issue is now also a developing legal priority for the Commission.
3. In response to the DC priority about how care packages undermined the rights to independent living and family and private life, the Commission corresponded with a local authority over its proposal to curtail a supported living programme. The council subsequently withdrew the proposal.

**Disability Programmes**

1. The work of the Disability Programmes team – which has now been replaced by a domain-based approach to programme delivery in the Commission – was steered by the DC’s priorities. It was responsible for servicing DC meetings, conducting the follow up work from the Disability Harassment Inquiry (DHI) and organising stakeholder events to inform DC’s thinking.

**DHI**

1. To follow up DHI, the statistics about disability hate crime were refreshed to get a better picture of progress throughout the criminal justice system: [Crime and disabled people: measures of disability-related harassment](https://www.equalityhumanrights.com/en/publication-download/research-report-103-crime-and-disabled-people).
2. The team also managed a number of voluntary and statutory (Equality Act 2006 s23) agreements with public authorities to improve practice in preventing and responding to disability hate crime. These generated good practice in establishing third party reporting centres (e.g. in Citizen’s Advice Bureaus and supermarkets) and increasing awareness of disability hate crime and how to report incidents. One of the public authorities also conducted valuable research into the causes of spikes in hate crimes incidents. It found that these occur after national media reports of events, such as terrorism. It also drew positive and negative lessons from local media reporting.
3. The [final report](https://www.equalityhumanrights.com/en/publication-download/tackling-disability-related-harassment-final-progress-report-2017) from the inquiry reviewing progress on tackling disability related hate crime was published in August 2017.
4. The report calls for a full scale review of hate crime legislation, stressing the need to equalise sentencing across protected characteristics. This would address one of the significant barriers highlighted in the Disability Harassment Inquiry.

**Stakeholder Events**

1. The DC held five stakeholder engagement events: in Wales (twice); Scotland; in London (with young people); and in Manchester (on the built environment). Whilst the information did occasionally influence the Commission’s work, such as the response to the Green Paper on Disability and Employment, and created some positive feedback on social media, the intelligence was not used systematically.

**Seminar on Priorities**

1. Disability Programmes team organised a seminar for the DC on what it thought were the priorities for disabled people not currently on the Commission’s agenda. DC identified a number of topics, but only the restraint work was taken forward because of resource constraints. This was an instance underlining the need for clearer joined up communication with the DC about what the Commission can deliver, given the on-going funding and staffing challenges the Commission faces.. It also showed why having a separate DC did not always work well to mainstream disability rights in the Commission.
2. The DC had hoped to influence the direction of the housing inquiry so that it focussed on the denial of the rights to independent living and family and private life caused by inadequate social care budgets. The Commission’s own evidence base pointed to an inquiry on the availability of accessible and adaptable housing. This difference of approach was not sufficiently transparent in the early conversations about the subject for the inquiry and led to an increasing feeling of frustration among DC members as differences emerged over time.
3. It would be wrong, however, to say the DC did not influence the final shape of the inquiry. Its advice that it should focus on housing rather than transport was accepted. Also, the scope of the inquiry was widened to include tenancy support services and emerging results look likely to identify housing choice as an issue.

1. In addition, the Commission’s legal team has identified a major piece of work on the effect on disabled people’s right to independent living of inadequate support packages. In its view, poor needs assessments and financial caps may result in institutionalisation of disabled people. At the time of writing, we have identified 32 Clinical Commissioning Groups (CCGs) to whom we will send letters expressing our concerns following a review of all 209 CCGs’ policies for those who are seriously or terminally ill. Both the decision to provide legal support for this work and the substance of the proposed review were informed by the DC (and interim DAC).

**Recommendations for improvement**

1. The DC achieved a great deal between 2014-17; it also influenced the Commission in ways that were not always properly communicated. There were also times when the DC did not have the influence it would have liked.
2. This underlines the need for greater transparency and better communication with the DAC. The DAC is not only a source of strategic advice, DAC members are also key stakeholders. It can add value by advising on both tactical and strategic matters (i.e. how the Commission can present its initiatives positively to stakeholder audiences as well as its overall direction). The move away from a statutory to an advisory committee will assist in this process.
3. To help effect this transformation, we recommend:
   1. That the DAC provide feedback on proposals for the Business and Strategic Plans
   2. That individual members focus on specific functions or domains and provide advice and expertise to domain and functional teams
   3. That individual members or working groups contribute to specific pieces of work, feeding in their expert knowledge and understanding
   4. That the views of DAC members are sought as appropriate on relevant strategic issues to be considered by Prioritisation Group
   5. When DAC response is not possible in the timeframe, disability protected characteristic lead officers advise on relevant Prioritisation Group papers in light of discussions at DAC and report back to DAC.
4. DAC members will continue to make important contributions to the work of the Commission, as DC members did. It is critical that the DAC knows when its advice has and has not been acted upon and how its influence has been felt. It should expect full responses to its advice at every meeting and understand that it plays a valued and integral role in informing the decision-making machinery of the Commission.