



HOUSE OF LORDS

Liaison Committee

2nd Report of Session 2021–22

**The Equality Act
2010: the impact
on disabled people**
Follow-up report

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Liaison Committee

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* Earl Howe recused himself on grounds of ministerial propriety

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The Equality Act 2010: the impact on disabled people

Follow-up report

CHAPTER 1: INTRODUCTION

1. This report is the fourth using the new follow-up procedure recommended by our July 2019 report on the review of House of Lords Committees.¹ In this report, we examine the progress which has been made by the Government and key stakeholders on the implementation of some of the recommendations made by the Select Committee on the Equality Act 2010 and Disability in their report, *The Equality Act 2010: the impact on disabled people*.²

The Select Committee on the Equality Act 2010 and Disability

2. The Select Committee on the Equality Act 2010 and Disability was a post-legislative scrutiny committee.³ The aim of post-legislative scrutiny committees is to determine if legislation has achieved its purpose.⁴ The Committee was appointed for one year, in the 2015–2016 session, “to consider and report on the impact on people with disabilities of the Equality Act 2010.”⁵ The Liaison Committee proposed that the Committee could consider:
 - “Adequacy of the Law: Has the Act achieved the aim of harmonising and strengthening disability discrimination law? Are there gaps in legal protection against discrimination that impact on the ability of disabled people to participate fully in, and contribute to, society with dignity and respect?
 - Implementation: Are the reasonable adjustment provisions of the Equality Act 2010 being implemented in access to goods and services available to the public? Does the division of responsibilities across several Government Departments support effective implementation?
 - Enforcement: Are the enforcement mechanisms accessible and effective for people with disabilities and service providers? How effective is the

1 Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure* (6th Report, Session 2017–19, HL Paper 398)

2 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117)

3 Post-legislative scrutiny was recommended by the Constitution Committee in their 2003 report: *Parliament and the Legislative Process*. The House of Lords appointed its first post-legislative scrutiny committee in session 2010–12, and has subsequently usually appointed at least one such committee each year.

4 Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure* (6th Report, Session 2017–19, HL Paper 398), para 94. See also Constitution Committee, *Parliament and the Legislative Process* (14th Report, Session 2003–04, HL Paper 173-I), p 42

5 Liaison Committee, *Review of select committee activity and proposals for new committee activity* (2nd Report, Session 2014–15, HL Paper 127), para 39

Equality and Human Rights Commission in fulfilling its enforcement and regulatory role in respect of disability discrimination?”⁶

The Act

3. The Equality Act 2010 was intended to “harmonise discrimination law; and to strengthen the law to support progress on equality.”⁷ It brought together over 116 separate pieces of legislation into a single Act⁸ with the aim of guarding against discrimination on the grounds of the ‘protected characteristics’ of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.⁹ The Act received Royal Assent in April 2010 and most of the provisions were in force by October 2010. An explanatory memorandum was published in July 2015.¹⁰
4. The provisions in the Act apply to both the public and private sectors in employment, education, housing, goods and services, public services and transport. The Act also contains a duty on public authorities to “have due regard” to the need to eliminate unlawful discrimination, advance equality, and foster good relations (the Public Sector Equality Duty or ‘PSED’, also referred to as the ‘general duty’).¹¹ The Equality Act 2010 set out the legal details on enforcement. Enforcement is also affected by other more general laws that govern the operation and rules of the tribunal and courts system.¹²

Devolution

5. The whole of the Equality Act applies to England and Wales, and all the disability provisions except section 190 (improvements to let dwelling houses) apply to Scotland. However, much of the Act relates to matters which are the responsibility of the devolved administrations. The Act does not extend to Northern Ireland, where the Disability Discrimination Act 1995 is still in force.

Controversies

6. Many witnesses had felt that the absorption of the Disability Discrimination Act into the Equality Act led to a loss of focus on disability which is different in nature to the other protected characteristics listed in the Act. In

6 Liaison Committee, *Review of select committee activity and proposals for new committee activity* (2nd Report, Session 2014–15, HL Paper 127), para 38

7 Government Equalities Office, *Memorandum to The Women and Equalities Select Committee: Post-Legislative Scrutiny of The Equality Act 2010* (July 2015), p 6: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/441838/Memo_to_Women_Equalities.pdf

8 The nine main pieces of legislation that have merged are: the Equal Pay Act 1970; the Sex Discrimination Act 1975; the Race Relations Act 1976; the Disability Discrimination Act 1995; the Employment Equality (Religion or Belief) Regulations 2003; the Employment Equality (Sexual Orientation) Regulations 2003; the Employment Equality (Age) Regulations 2006; the Equality Act 2006, Part 2; the Equality Act (Sexual Orientation) Regulations 2007.

9 The Equality and Human Rights Commission, *An introduction to the Equality Act 2010* (19 June 2019): <https://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act> [accessed 21 July 2021]

10 Government Equalities Office, *Memorandum to The Women and Equalities Select Committee: Post-Legislative Scrutiny of The Equality Act 2010* (July 2015): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/441838/Memo_to_Women_Equalities.pdf [accessed 21 July 2021]

11 The Equality and Human Rights Commission, *Public Sector Equality Duty Advice and Guidance* (26 March 2020): <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty> [accessed 21 July 2021]

12 For example legal costs.

consideration of this matter, the former Committee concluded: “We believe that combining disability with the other protected characteristics in one Act did not in practice benefit disabled people, but that separating statutory treatment of disability from the other protected characteristics would be impractical. We prefer to concentrate on improvements to the Act which will give greater prominence to disability and will increase the protection of disabled people.”¹³

Definition of disability

7. Section 6(1) of the Act, which defines “disability”, is as follows: “A person (P) has a disability if (a) P has a physical or mental impairment, and (b) the impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities.”¹⁴ This subsection has to be read together with the rest of section 6; with the provisions of Schedule 1; with statutory Guidance issued by the Minister; with Regulations made by the Minister; and with a substantial and increasing body of case law.¹⁵

The medical and social models of disability and terminology

8. The 2016 inquiry considered the two different models that are used to describe disability, the medical model and the social model. The 2016 report found that “a disability was once thought of, and indeed is often still treated, as the problem which a person may suffer from and which they attempt, as far as possible, to overcome. This is the medical model of disability.”¹⁶ The social model is understood to be the position that “Disabled people have argued that disability is the result of the way a person with an impairment is treated by society; a person is disabled, not by their condition, but by the way society reacts to that condition and fails to accommodate to it. This is the social model [of disability].”¹⁷ The 2016 inquiry did not make any conclusions or recommendations relating to the different models.

COVID-19 and the impact on disabled people

9. Whilst the main focus of this inquiry was not centred on the impact of COVID-19 on disabled people,¹⁸ the Committee was struck by evidence from witnesses that detailed the manner in which disabled people had been disproportionately affected by the pandemic. The Committee also heard evidence that “many disabled people have had their support packages reduced without any consultation or due process.”¹⁹ The Committee considers that action must be taken to improve the lives of and uphold the rights of disabled people without delay. It is imperative that the Government meaningfully

13 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 50

14 Equality Act 2010, [section 6\(1\)](#)

15 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 58

16 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 51

17 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 51

18 The House of Commons Women and Equalities Committee have recently conducted inquiries into these issues, see Women and Equalities Committee, *Unequal impact? Coronavirus, disability and access to services: full Report* (Fourth Report, Session 2019–21, HC 1050) and Women and Equalities Committee, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act* (First Report, Session 2019–21, HC 386)

19 [Q 3](#) (Kamran Mallick)

engages with and prioritises the rights and needs of disabled people as the country recovers from the COVID-19 pandemic.

The ageing population and disability

10. The 2016 report addressed how society could “ensure that employment, travel, education, information and even politics are accessible to all... whether born disabled or affected by injury or simply old age.”²⁰ The 2016 report found a direct correlation between an increase in life expectancy and a decrease in disability-free life expectancy.²¹ Whilst the Committee did not have the scope to take evidence on this policy area during the 2021 inquiry, the Committee wishes to draw attention to the fact that society will need to consider how best to accommodate the needs of an ageing population with complex health and accessibility needs.²² The Committee shares the sentiment, expressed by the Government “that we need to build a country that works for everyone.”²³ It hopes that the Government will give due regard to this when considering the recommendations made in this report.

The report and correspondence with the Government and key stakeholders

11. The former Committee published its report in March 2016. The Government responded to the report in July 2016.²⁴ Responses were also received from the Equality and Human Rights Commission (EHRC)²⁵ and Transport for London.²⁶ The report was debated on 6 September 2016.²⁷ The Chair of the Liaison Committee followed up the Committee’s recommendations in a letter dated 6 November 2017²⁸ to which the then Minister for Women and Equalities, Justine Greening MP, responded on 21 December 2017.²⁹ On 11 March 2020, the former Chair of the Select Committee on the Equality Act 2010 and Disability, Baroness Deech wrote to the Senior Deputy Speaker

20 HL Deb, 6 September 2016, [col 965](#)

21 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 26

22 Centre for Ageing Better, *Ageing and mobility: A grand challenge* (September 2019): <https://www.ageing-better.org.uk/sites/default/files/2019-09/Ageing-and-mobility-grand-challenge.pdf> [accessed 21 July 2021] see also, “The number of people with hearing is increasing. Estimates suggest that by 2035, about 15.6 million people in the UK will have hearing loss – that’s one in five of the population” Hearing Link, *Facts about deafness and hearing loss* (April 2021): <https://www.hearinglink.org/your-hearing/about-hearing/facts-about-deafness-hearing-loss> [accessed 21 July 2021]

23 HL Deb, 6 September 2016, [col 965](#)

24 Department for Education, *Government Response to the House of Lords Select Committee Report on The Equality Act 2010: The impact on disabled people*, Cm 9283, July 2016: <https://old.parliament.uk/documents/lords-committees/equality-act/Govt-Response-to-HoL-SC-Report-on-the-EA2010.pdf> [accessed 21 July 2021]

25 Equality and Human Rights Commission, *Equality and Human Rights Commission’s response to the report of the House of Lords Select Committee on the Equality Act 2010 and Disability: the impact on disabled people* (July 2016): <https://old.parliament.uk/documents/lords-committees/equality-act/EHRC-reponse-to-Equality-Act-Report.pdf> [accessed 21 July 2021]

26 Transport for London, *Transport for London (TfL) response to House of Lords Committee on the Equality Act 2010 and Disability report: The Equality Act 2010: The impact on disabled people* (June 2016): <https://old.parliament.uk/documents/lords-committees/equality-act/EA2010-Committee-TfL-response.pdf> [accessed 21 July 2021]

27 HL Deb, 6 September 2016, [cols 964–1014](#)

28 Letter from the Chair of the Liaison Committee to the Minister for Women and Equalities on the Select Committee on the Equality Act 2010 and Disability (November 2017): [https://old.parliament.uk/documents/lords-committees/liaison/Letter-6-11-2017-to-Justine-Greening-\(Select-Committee-on-Equality-Act-2010-and-Disability\).pdf](https://old.parliament.uk/documents/lords-committees/liaison/Letter-6-11-2017-to-Justine-Greening-(Select-Committee-on-Equality-Act-2010-and-Disability).pdf)

29 Letter from the Minister for Women and Equalities to the Chair of the Liaison Committee on the Select Committee on the Equality Act 2010 and Disability (December 2017): <https://old.parliament.uk/documents/lords-committees/liaison/Letter-from-Justine-Greening-MP-to-Lord-McFall-on-the-Select-Committee-on-the-Equality-Act-and-Disability.pdf>

making the case for follow-up. At its meeting on 14 September 2020³⁰ the Liaison Committee considered the proposal and on 5 February 2021 they agreed that follow-up work would commence in June 2021.

12. The Liaison Committee held four oral evidence sessions on 17 June 2021, when we were joined by former members of the Select Committee on the Equality Act 2010 and Disability: Baroness Deech (former Chair), Baroness Browning, Lord Faulkner of Worcester and Baroness Thomas of Winchester. We also received a number of written evidence submissions, and are grateful to all our witnesses.
13. As it relates to a follow-up inquiry, this report focuses on three selected key themes:
 - Oversight and enforcement
 - Reasonable adjustments
 - Access to justice
14. We consider each of these in turn in chapter two. Our conclusions and recommendations, to which we look forward to the Government's response, are summarised at the end of this report.

30 Liaison Committee, *Decisions document* (14 September 2020): <https://committees.parliament.uk/publications/3114/documents/29142/default/>

CHAPTER 2: PROGRESS ON KEY RECOMMENDATIONS

Oversight and Enforcement

Government leadership and strategy

15. The 2016 report identified issues regarding oversight and cross-government coordination and made a number of conclusions and recommendations regarding this.³¹ The Committee is pleased to see that the recommendation that “The Minister for Disabled People should have the rank of Minister of State restored”³² has been actioned.
16. Nevertheless, the Committee notes that issues regarding the coordination and oversight of policy relating to disabled people remain. The role of the Minister for Women and Equalities has changed frequently since its inception and since the former Committee reported in 2016.³³ This has been commented on and examined by the Women and Equalities Committee (WEC) in the House of Commons who have expressed concern about the impact of the Government Equalities Office (GEO) moving between Whitehall departments.³⁴ Their 2018 report *The role of Minister for Women and Equalities and the place of GEO in government* concluded:

“The rate of change in the positions of the Minister for Women and Equalities and the Government Equalities Office is unsatisfactory and unsustainable. It is a source of disruption and confusion, both within the Civil Service and among stakeholders. It also risks giving the impression that equality is a low priority for the Government, as does the part-time nature of the Minister’s role.”³⁵
17. In 2016, the former Committee concluded that “The effectiveness of the role [of the Minister for Disabled People] is also affected by the lack of power to challenge policy that may impact adversely on disabled people.”³⁶ In evidence to the Liaison Committee in 2021, Caroline Waters, Deputy Chair of the Equality and Human Rights Commission (EHRC) said “We need much greater leadership from government, with transparent ministerial leadership and accountability.”³⁷ Kamran Mallick, CEO of Disability UK, was of the view that “Disabled people’s voices are not central to thinking. Disabled

31 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), paras 110–115

32 In 2015 the decision was taken to downgrade the role to Parliamentary under Secretary of State, the most junior Ministerial position. Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), p 38

33 The role of ‘Minister for Women’ was created in 1997 and in 2006 became the ‘Minister for Women and Equality’, the title changed to ‘Minister for Women and Equalities in 2010’. The post holder is responsible for policy on women and the government’s overall equalities strategy. See: Women and Equalities Committee, *The role of Minister for Women and Equalities and the place of GEO in government* (Second Report, Session 2017–2019, HC 356), p 6

34 Women and Equalities Committee, *Changes to role of Minister for Women and Equalities examined* (8 May 2018): <https://committees.parliament.uk/committee/328/women-and-equalities-committee/news/102132/changes-to-role-of-minister-for-women-and-equalities-examined/> [accessed 21 July 2021]

35 Women and Equalities Committee, *The role of Minister for Women and Equalities and the place of GEO in government* (Second Report, Session 2017–19, HC 356), para 25

36 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 112

37 [Q 17](#) (Caroline Waters)

people are not central to planning... Disabled people are not central to any government thinking in a systematic or structured way.”³⁸

18. When asked “What progress, if any, has been made since the committee reported in 2016?”³⁹ Catherine Casserley, Barrister, responded: “very little.”⁴⁰ Kamran Mallick informed the Committee that “For disabled people, life ... certainly remains incredibly difficult ...the last year has shown us that the values placed on our lives are very low. Disabled people are always the last to be considered. Often, it takes organisations like ours [Disability Rights UK] and people like Catherine [Casserley] to challenge government to think about disabled people.”⁴¹
19. The Equality and Human Rights Commission (EHRC) has argued that the forthcoming National Strategy for Disabled People should be “owned by the Cabinet Office, to drive co-ordinated improvements across Government.”⁴² In evidence to the Liaison Committee in 2021, the Minister for Disabled People, Justin Tomlinson MP stated, “I have the disability unit embedded at the heart of government to make sure that, as policies are developed, the eyes and ears of disability issues are there.”⁴³ The Minister went on to say that “Every department now has a senior Minister as a disability champion and they are personally accountable, and that is ultimately all reported back to the Prime Minister”⁴⁴ and “the National Strategy for Disabled People ... will be personally led by the Prime Minister”.⁴⁵ The Committee notes that the publication for the National Strategy for Disabled People has been delayed several times and was not mentioned in the 2021 Queen’s speech.⁴⁶
20. In their 2016 report, the former Committee recommended that the Minister for Disabled People be made a member of the Cabinet Office’s Social Justice Committee, whose remit was to “To consider issues relating to poverty, equality and social justice”.⁴⁷ The Social Justice Committee was disbanded in 2016⁴⁸ and these issues do not fall into the remit of any current Cabinet Office Committee.⁴⁹ In 2014, an inter-ministerial group on disability and society was established.⁵⁰ In evidence to the former Committee in 2015, the Government stated that the inter-ministerial group on disability and society was “intended to be a vehicle by which Ministers can get together

38 Q 1 (Kamran Mallick)

39 Q 1 (Baroness Deech)

40 Q 1 (Catherine Casserley)

41 Q 1 (Kamran Mallick)

42 Equality and Human Rights Commission, *EHRC Briefing on Development of National Disability Strategy* (12 February 2021): available at <https://www.equalityhumanrights.com/en/ymatebion-cyfreithiol/parliamentary-briefings> [accessed 22 July 2021]

43 Q 18 (Justin Tomlinson MP)

44 Q 18 (Justin Tomlinson MP)

45 Q 18 (Justin Tomlinson MP)

46 Prime Minister’s Office, 10 Downing Street, *Queen’s Speech 2021* (11 May 2021): <https://www.gov.uk/government/speeches/queens-speech-2021> [accessed 7 July 2021]

47 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 113

48 Institute for Government, *Cabinet Committees* (1 July 2020), p 2: <https://www.instituteforgovernment.org.uk/printpdf/5242> [accessed 22 July 2021]

49 Cabinet Office, *List of Cabinet Committees* (19 November 2020): <https://www.gov.uk/government/publications/the-cabinet-committees-system-and-list-of-cabinet-committees> [accessed 7 July 2021]

50 Department for Work and Pensions, *Interdepartmental Ministerial Group on Disability*, (20 March 2014): <https://webarchive.nationalarchives.gov.uk/20140402163830/http://odi.dwp.gov.uk/docs/img-public-statement-20march14.pdf> [accessed 7 July 2021]. See also Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 100

and identify areas of common interest where there is a need to get better co-ordination across government.”⁵¹ Data from the Institute for Government’s ‘Cabinet Committees’ report shows that the inter-ministerial group had been disbanded by September 2016.⁵² The group was re-established in 2018.⁵³ It is unclear if it still exists as the Government does not regularly publish data on these groups. **The Committee hopes that information about the current status of this group will be included in the Government’s response to this report.**

The role of Ombudsmen

21. The 2016 report recommended that “the Government amend the mandates of those regulators, inspectorates and ombudsmen that deal with services most often accessed by disabled people to make the securing of compliance with the Equality Act 2010 a specific statutory duty” and “that any new relevant public sector ombudsman be given an explicit remit to secure compliance with the Equality Act 2010 in the services for which it is responsible.”⁵⁴
22. In their response to the 2016 report, the Government stated that they were “committed to bringing forward draft legislation in this session of Parliament about the establishment of a Public Service Ombudsman (PSO). This PSO will combine the jurisdictions of the Local Government Ombudsman and the Parliamentary and Health Service Ombudsman.”⁵⁵ Whilst the draft bill was published in 2016, no further parliamentary progress has been made with this legislation.⁵⁶ The Committee notes that the bill was not included in the Queen’s speech 2021.⁵⁷ ***The Committee recommends that the Government include an update on the progress made with this legislation in their response to this report. If the Government does intend to move forward with this legislation, the Committee recommends that it consults closely with the EHRC and Disabled People’s organisations.***
23. ***The Committee reiterates the 2016 recommendation that “any new relevant public sector ombudsman be given an explicit remit to secure compliance with the Equality Act 2010 in the services for which it is responsible.”***

51 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 100

52 Cabinet Office, *List of Cabinet Committees*, (19 November 2020): <https://www.gov.uk/government/publications/the-cabinet-committees-system-and-list-of-cabinet-committees> [accessed 7 July 2021]

53 Written Answer [176680](#) (Session 2017–19). See also Office for Disability Issues, ‘About us’: <https://www.gov.uk/government/organisations/office-for-disability-issues/about#the-inter-ministerial-group-on-disability-and-society> [accessed 13 July 2021]

54 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 462

55 HM Government, *Government Response to the House of Lords Select Committee Report on The Equality Act 2010: The impact on disabled people*, Cm 9283, July 2016, p 30: <https://old.parliament.uk/documents/lords-committees/equality-act/Govt-Response-to-HoL-SC-Report-on-the-EA2010.pdf> [accessed 7 July 2021]

56 Cabinet Office, *Draft Public Service Ombudsman Bill* (5 December 2016): <https://www.gov.uk/government/publications/draft-public-service-ombudsman-bill> [accessed 27 July 2021]

57 Prime Minister’s Office, 10 Downing Street, *Queen’s Speech 2021*, (11 May 2021): <https://www.gov.uk/government/speeches/queens-speech-2021> [accessed 7 July 2021]

National Strategy for Disabled People

24. In April 2020, the Government announced their intention to publish a ‘National Strategy for Disabled People.’⁵⁸ A survey was launched in January 2021.⁵⁹ The strategy was due to be published in the Spring of 2021, but at the time that this report was being prepared a new date for publication has not been announced.⁶⁰
25. *The Committee looks forward to receiving in the Government’s response to this report a detailed outline of how the Minister for Disabled People and the Prime Minister will oversee the implementation of the strategy. It is crucial that the National Strategy should not displace the need to enact the recommendations made in the 2016 Report. The Strategy should include them along with indications as to how they are to be implemented. We recommend that a timetable and details of the mechanisms for oversight and coordination, including Cabinet Committees and inter-ministerial groups, is published within three months of the publication of the strategy to ensure that the needs of disabled people are met without delay.*
26. *The Committee notes that the Minister for Women and Equalities role is currently part of a mixed portfolio. In order to give due regard to this important and complex policy area, the Committee recommends that the Government consider making the Minister for Women and Equalities a stand-alone, full-time role. The Minister should be part of the Cabinet Office team, with the right to attend Cabinet.*
27. *The Minister should continue to work closely with the Minister for Disabled People to deliver the National Strategy for Disabled people. The Committee urges the Government to consider recommendations made by the Women and Equalities Committee that Junior ministerial roles should also be based in the Cabinet Office, but could be jointly held with departments whose remits reflect the Government’s top equalities priorities at the time, such as the Home Office, Department for Work and Pensions or the Ministry of Housing, Communities and Local Government.*
28. *The Committee is disappointed to see that the Cabinet Social Justice Committee has been disbanded, with no obvious replacement to discuss these crucial issues. The Committee supports the recommendation made by the Women and Equalities Committee that a Cabinet sub-committee for equalities should be established, chaired by the Minister for Women and Equalities. The Minister for Disabled People should be a member of this Committee.*

58 Disability Unit, ‘A National Strategy for Disabled People to remove barriers and increase participation’ (2 April 2020): <https://www.gov.uk/government/news/a-national-strategy-for-disabled-people-to-remove-barriers-and-increase-participation> [accessed 7 July 2021]

59 Disability Unit, ‘National Strategy for Disabled People survey’ (15 January 2021): <https://www.gov.uk/government/news/citizen-space-survey-national-strategy-for-disabled-people> [accessed 7 July 2021]

60 Disability Unit, ‘National Strategy for Disabled People survey’ (15 January 2021): <https://www.gov.uk/government/news/citizen-space-survey-national-strategy-for-disabled-people> [accessed 7 July 2021]

Public Sector Equality Duty (PSED)

29. The Public Sector Equality Duty (PSED) was introduced by section 149 of the Equality Act 2010, which came into force on 5 April 2011. It replaced the existing duties in respect of race, disability, and gender equality. The aim of the PSED was to put a legal obligation on public authorities to take proactive steps to eliminate discrimination and advance equality.⁶¹
30. The technical guidance issued by the EHRC explains that the duty “place[s] a responsibility on bodies subject to the duty to consider how they can work to tackle systemic discrimination and disadvantage affecting people with particular protected characteristics.”^{62,63} The general Public Sector Equality Duty is supported by ‘specific duties’ designed to enable ‘better performance’ of the general duty.⁶⁴
31. As outlined in the 2016 report, section 149 of the Equality Act requires public authorities and those exercising public functions to have due regard to the need to:
- “Eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - Advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - Foster good relations between people who share a protected characteristic and those who do not.”⁶⁵
32. These are referred to as the three ‘aims’ of the general duty. Importantly for disability, section 149(4) specifies that the duty includes taking account of disabled persons’ disabilities and section 149(6) permits treating some persons “more favourably than others”, as long as this does not involve conduct otherwise prohibited by the Act.⁶⁶
33. The duty applies to all public authorities and those exercising public functions—including ministers and government departments, local authorities, NHS trusts and other health and social services authorities, the armed forces and the police. The functions to be considered are not only employment and services, but also less obvious functions such as commissioning and procuring goods and services, or auditing, inspecting, and regulating others.⁶⁷ Private or not for profit organisations contracted to deliver public functions, such as operating a prison, are also bound by the duty in respect of those functions.⁶⁸

61 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 325

62 Equality and Human Rights Commission, *Protected characteristics* (last updated 6 July 2021): <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics> [accessed 7 July 2021]

63 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 328

64 Equality Act 2010, [section 153](#)

65 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), box 9

66 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), box 9

67 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), box 9

68 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), box 9

34. The 2016 report identified a “fundamental flaw” in the Public Sector Equality Duty.⁶⁹ This was because of the “due regard” principle which was considered to be too weak and in some cases “may have encouraged a ‘tick-box’ approach, with an ‘emphasis on procedure rather than outcome.’”⁷⁰ The report concluded that the ‘due regard’ principle had led to judicial outcomes where a “public authority can make no progress towards the aims of the general duty and yet be judged compliant with it by the courts”.⁷¹
35. The report recommended that: “a new subsection should be added to section 149: ‘To comply with the duties in this section, a public authority in the exercise of its functions, or a person within subsection (2) in the exercise of its public functions, shall take all proportionate steps towards the achievement of the matters mentioned in subsection (1).’”⁷²
36. The Government response stated that: “In line with the recommendations of the 2013 Review of the Public Sector Equality Duty by the independent steering group chaired by Lord Hayward the Government is considering a further review of the PSED. We will ensure that the Select Committee’s concerns and recommendations are taken into account in any such review.”⁷³ The Lord Hayward review, conducted in 2013, had found that “The term ‘due regard’ was deemed to be ambiguous and could lead to either over compliance or organisations paying ‘lip service’ to equality aims”.⁷⁴
37. The Equality and Human Rights Commission conducted a review of the aims and effectiveness of the PSED in 2018.⁷⁵ The review stated a need for “clarity in the terms of the duty to enable the courts accurately and consistently to gauge whether a breach of the duty has occurred.”⁷⁶ The EHRC also called for a process which “focuses on the ‘results’ of actions rather ‘intent’”.⁷⁷
38. In 2021, the Liaison Committee sought evidence regarding the effectiveness of the PSED and asked witnesses whether a new subsection should be added to section 149 requiring public authorities to take all proportionate steps to meet the public sector equality duty.⁷⁸ The Committee also asked if the

69 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 345

70 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 343

71 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 345

72 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 346

73 HM Government, *Government Response to the House of Lords Select Committee Report on The Equality Act 2010: The impact on disabled people*, Cm 9283, July 2016, p 24: <https://old.parliament.uk/documents/lords-committees/equality-act/Govt-Response-to-HoL-SC-Report-on-the-EA2010.pdf> [accessed 7 July 2021]

74 Government Equalities Office, *Review of the Public Sector Equality Duty: Report of the Independent Steering Group* (6 September 2013), p 28: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237194/Review_of_the_Public_Sector_Equality_Duty_by_the_Independent_Steering_Group.pdf [accessed 7 July 2021]

75 Equality and Human Rights Commission, *Reviewing the aims and effectiveness of the Public Sector Equality Duty (PSED) in Great Britain* (August 2018): <https://www.equalityhumanrights.com/sites/default/files/review-of-public-sector-equality-duty-psed-effectiveness.pdf> [accessed 7 July 2021]

76 Equality and Human Rights Commission, *Reviewing the aims and effectiveness of the Public Sector Equality Duty (PSED) in Great Britain* (August 2018), p 31: <https://www.equalityhumanrights.com/sites/default/files/review-of-public-sector-equality-duty-psed-effectiveness.pdf> [accessed 7 July 2021]

77 Equality and Human Rights Commission, *Reviewing the aims and effectiveness of the Public Sector Equality Duty (PSED) in Great Britain* (August 2018), p 31: <https://www.equalityhumanrights.com/sites/default/files/review-of-public-sector-equality-duty-psed-effectiveness.pdf> [accessed 7 July 2021]

78 [Q 3](#) (Baroness Browning)

Equality Act 2010 (Specific Duties) Regulations 2011 should be replaced with provisions that require a listed public authority to develop and implement a plan of action setting out how they will meet the requirements of the general duty in all of their functions.⁷⁹

39. Catherine Casserley told the Committee that the PSED “has not delivered the outcomes that the people who were involved in it at the outset certainly would want it to.”⁸⁰ Casserley explained that the key flaw in the PSED, identified in 2016, that “it does not require outcomes,” remains an issue five years later. In reference to case law, Casserley stated that “authorities often say, ‘This is about process and not about outcomes. We did consider equality and disability, but we went ahead anyway. Even if we did breach the duty, it wouldn’t have made a difference.’”⁸¹ She went on to say that “... there needs to be a change to the duty. It needs to be more action based and more enforceable.”⁸²
40. Kamran Mallick concurred, stating that: “The burden is currently on disabled people to enforce their rights. The Public Sector Equality Duty is a prime example ...The burden should be on public institutions to implement their obligations or strengthen their duty.” Mallick went on to argue for greater enforcement, stating that “public bodies [should] incur penalties when they do not meet the duty. That should be an absolute requirement.”⁸³
41. Caroline Waters, Deputy Chair, Equality and Human Rights Commission, stated that the EHRC had found that “the work done on compliance by public authorities was not always strategic”⁸⁴ and “provides a lot of leeway that makes enforcement rather difficult.”⁸⁵ It was clear from the evidence that the issues identified with the PSED in the former Committee’s 2016 report remain, with Waters stating that “we have seen an approach that focuses just on a tick-box exercise that is often quite process driven”⁸⁶ and that the PSED is “by no stretch of the imagination delivering to its full potential.”⁸⁷ A lack of meaningful engagement with disabled people by public authorities was identified, with Waters stating that: “There is a lack of specific focus and identification of the issues through strong contact with disabled people, and we are not seeing real, in-depth measurement of their own services.”⁸⁸ The EHRC informed the Committee that they have: “been publishing action plans, reporting on progress and trying to be a catalyst in this area. We have been working with public authorities, civil society regulators and inspectors to refine and test those proposals.” Nevertheless, they stated that: “Clearly, there is much more work to do.”⁸⁹

79 [Q 3](#) (Baroness Browning)

80 [Q 3](#) (Catherine Casserley)

81 [Q 3](#) (Catherine Casserley)

82 [Q 3](#) (Catherine Casserley)

83 [Q 3](#) (Kamran Mallick)

84 [Q 12](#) (Caroline Waters)

85 [Q 12](#) (Caroline Waters)

86 [Q 14](#) (Caroline Waters)

87 [Q 14](#) (Caroline Waters)

88 [Q 14](#) (Caroline Waters)

89 [Q 14](#) (Caroline Waters)

42. The role of action plans in upholding the PSED have been examined in other contexts.⁹⁰ The Government has recently encouraged employers to publish action plans but has said making them mandatory “might result in a prescriptive format [of] limited value”.⁹¹ When asked about the merits of the Government’s position, Declan O’Dempsey from the Discrimination Law Association disagreed, stating that “these action plans are a very important evidential tool ... It is not a technical legal point. It is about the influence that having to do an action plan can have.”⁹² O’Dempsey stated that: “The action plan is a good way of strengthening the duty, as would be the suggestion of showing that the public authority has taken proportionate steps ... to show what progress has been made to achieve the objectives set out in section 149. I think that would focus the mind of public authorities very much more.”⁹³
43. Charles Ramsden, Deputy Director, Government Equalities Office, stated that the Government had not made any active progress on the PSED since the Hayward review was published in 2013. He said: “To go back to Lord Hayward’s review in 2013⁹⁴ the report noted: ‘It is clear, however, that there are divided views on the Duty—whether it should be removed, reduced, strengthened or even expanded to cover other characteristics and sectors. This debate is for another time’. That to a degree has remained the position since the 2013 review. Those factors have all tended to stand in the way of a change to section 149 of the Act.”⁹⁵
44. Whilst the Committee recognises the elements of complexity involved in this decision-making process, it does not view this as a justifiable explanation for the Government’s inaction on this matter. Charles Ramsden went on to state that “the Public Sector Equality Duty is lacking in a number of key respects” but the position of central government was that where “acknowledgement, recognition and compliance with the duty is concerned, we think it has made reasonable steps over the 10 years”.⁹⁶ Whilst the Committee welcomes the steps taken by public authorities to comply with the PSED⁹⁷ it is disappointed that the flaws identified with the ‘due regard’ principle remain unaddressed.
45. ***The Committee reiterates the 2016 recommendation that the following subsection be added to section 149: “To comply with the duties in this section, a public authority in the exercise of its functions, or a person within subsection (2) in the exercise of its public functions, shall take all proportionate steps towards the achievement of the matters mentioned in subsection (1).”***

90 For example, the Business, Energy and Industrial Strategy Committee held an inquiry in 2018 on gender pay-gap reporting in the private sector, and called on the Government to require organisations to publish, alongside their figures, an action plan to close the gap and report on progress annually as part of normal reporting requirements. Business, Energy and Industrial Strategy Committee, *Gender pay gap reporting* (Thirteenth Report, Session 2017–19, HC 928)

91 Business, Energy and Industrial Strategy Committee, *Gender pay gap reporting: Government Response to the Committee’s Thirteenth Report* (Sixteenth Special Report, Session 2017–19, HC 1895)

92 Q 9 (Declan O’Dempsey)

93 Q 9 (Declan O’Dempsey)

94 Government Equalities Office, *Review of the Public Sector Equality Duty: Report of the Independent Steering Group* (6 September 2013): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237194/Review_of_the_Public_Sector_Equality_Duty_by_the_Independent_Steering_Group.pdf [accessed 21 July 2021]

95 Q 24 (Charles Ramsden)

96 Q 24 (Charles Ramsden)

97 Q 14 (Caroline Waters)

46. *The Committee reiterates the 2016 recommendation that: that the Government replace the Equality Act 2010 (Specific Duties) Regulations 2011 with provisions that require a listed public authority to develop and implement a plan of action setting out how they will meet the requirements of the general duty in all of their functions.*

Reasonable adjustments

47. The 2016 report found that: “Sections 20 and 21 of the Equality Act 2010 require those to whom the provisions apply, including employers, service providers, educational institutions, transport providers, and sports bodies, to ‘take such steps as it is reasonable to have to take’ to avoid putting disabled people at ‘a substantial disadvantage’. Failure to comply with this duty is a form of discrimination ... The precise duty has evolved over time and varies across the different aspects of life with which the Act is concerned.”⁹⁸
48. In general, the duty to make reasonable adjustments requires the taking of “such steps as it is reasonable to have to take” to avoid a disabled person being put at a “substantial disadvantage” by any of the following:
- (a) “A ‘provision, criterion or practice’. This could be, for example, adjusting a uniform or dress policy to accommodate different impairment types.
 - (b) A physical feature. This could include, for example, steps, parking areas, signage, floor covering, furniture and toilets or washing facilities.
 - (c) Lack of an auxiliary aid or service. Examples here are providing a specialist piece of equipment, a videophone, or a sign language interpreter.”⁹⁹
49. Adjustments under a) or c) could include making information available in an accessible format. It is not permissible to pass the costs of making an adjustment on to the disabled person. There is an exception to this under the un-commenced provisions on the common parts of leasehold premises, (section 36 and schedule 4) where the landlord can require the leaseholder or tenant to pay the costs of the adjustment.¹⁰⁰ This is considered in more detail below.

Reasonable adjustments to common parts Section 36(1)(d)

50. The 2016 report found that:
- “Section 36 of the Equality Act 2010, and Schedule 4, include provisions on reasonable adjustments to the common parts of buildings such as blocks of flats. These provisions have not yet been commenced. If they were, those responsible for the common parts (such as a landlord in a leasehold block of flats) would have to agree to changes to common parts if asked by a disabled tenant and if, after consulting the other residents,

98 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 193. See also Equality Act 2010, [section 20](#).

99 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), box 5

100 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), box 5

they concluded that it would be reasonable to do so. It is always legal for the landlord to ask the disabled tenant to pay for the alteration.”¹⁰¹

51. The 2016 report stated that: “The failure to commence these provisions was criticised by [numerous witnesses including:] the Equality and Human Rights Commission, the Discrimination Law Association, the Disability Law Service... Disability Rights UK, and the Law Centres Network.”¹⁰²
52. In evidence to the 2016 inquiry, Justin Bates of the Housing Law Practitioners Association described a practical example of a case in which he had been involved:

“An elderly leaseholder has a flat on the second and third floor. There is absolutely no reason why she cannot live independently, save that she has mobility issues. She wants to install a stair lift to get up to her second or third floor flat. She asks the freeholder for permission. The freeholder says no. She offers to pay the installation costs and all the running costs herself so there is no drain on the service charge. The freeholder says no. On the face of it, that is a lawful refusal.”¹⁰³
53. The 2016 report concluded and recommended:

“We do not understand why yet another review is needed of the commencement of the provisions dealing with alterations to common parts. There is no justification for further delay. They must be brought into force forthwith.”¹⁰⁴
54. In correspondence with the Chair of the Liaison Committee in 2017, Justine Greening MP, then Minister for Women and Equalities, stated in relation to section 36: “The Government made a commitment in 2016 to review commencement of the remaining provisions. The Government Equalities Office, Department for Communities and Local Government and the Department of Health have been closely engaged on this review, and I am pleased to say that, in the light of the review, Government now intends to commence Section 36, subject to Parliamentary passage of any regulations, should these prove necessary.”¹⁰⁵
55. The Government again confirmed their intention to commence section 36, subject to any necessary regulations, when they responded in March 2018 to the Women and Equalities Committee Report of April 2017 on Disability and the Built Environment.¹⁰⁶ They added the caveat that: “Further work on identifying and assessing any additional burdens on local authorities is first

101 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 235

102 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 236

103 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 236

104 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 244

105 Letter from the Minister for Women and Equalities to the Chair of the Liaison Committee on the Select Committee on the Equality Act 2010 and Disability (November 2017): <https://old.parliament.uk/documents/lords-committees/liaison/Letter-from-Justine-Greening-MP-to-Lord-McFall-on-the-Select-Committee-on-the-Equality-Act-and-Disability.pdf>

106 Women and Equalities Committee, *Building for Equality: Disability and the Built Environment* (Ninth Report, Session 2016–17, HC 631)

required, after which an announcement on timing of the commencement will be made”.¹⁰⁷

56. The EHRC carried out a separate review ‘Housing and disabled people - Britain’s hidden crisis’ in 2018.¹⁰⁸ It called on the Government to implement section 36 (and on the government in Scotland to introduce regulations under section 37) by the end of that year.¹⁰⁹ To date, no timescale has been published for this assessment or commencement of the outstanding parts of section 36.¹¹⁰
57. The Committee could find no reasonable explanation for the delay in bringing section 36 into force in 2016, and the evidence received in 2021 paints a similar picture. When asked why the Government had failed to commence this section of the Act, Catherine Casserley said: “I really do not understand why the provision has not been implemented What is reasonable and unreasonable is allowed for in the provisions of the Act... it is a perfectly well-drafted provision.”¹¹¹ When asked if there was any reason as to why the Government had not commenced this provision, Kamran Mallick stated: “I cannot think of a reason other than pressure from a particular lobby group.”¹¹² When asked about section 36, Melanie Field, Executive Director, Strategy, Policy, Legal and Wales at the EHRC said that: “We often draw government’s attention to the need to implement that provision, and we hope that progress will be made.”¹¹³
58. Catherine Casserley further explained the impact on disabled people, telling the Committee that in her experience: “People can ask for a disabled facilities grant to pay for adjustments. One of the things that I have seen with clients is that the disabled facilities grants are available to them, but they cannot get consent from the landlord for the common parts.”¹¹⁴ Casserley also argued that commencing section 36 may actually lead to savings in the long term by enabling disabled people to stay in the private housing market, rather than having to move into local authority or residential accommodation because they are unable to get the reasonable adjustments needed to in the private housing market. According to Casserley “If one were to do a cost-benefit analysis and include all those costs, it would probably be quite favourable.”¹¹⁵
59. Evidence to the Committee showed that the failure of the Government to commence this provision is having a detrimental impact on disabled people’s lives. According to Mallick, “life becomes very difficult for disabled tenants and leaseholders ... You find yourself living in properties that are just not

107 HM Government, *Government Response to the Report of the House of Commons Women and Equalities Committee Building for Equality: Disability and the Built Environment*, Cm 9527 (March 2018):https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/702687/CM9527_web.pdf. See also Women and Equalities Committee, *Building for Equality: Disability and the Built Environment* (Ninth Report, Session 2016–17, HC 631)

108 Equality and Human Rights Commission, *Housing and Disabled People. Britain’s Hidden Crisis* (2018): https://www.equalityhumanrights.com/sites/default/files/housing-and-disabled-people-britains-hidden-crisis-main-report_0.pdf [accessed 7 July 2021]

109 Equality and Human Rights Commission, *Housing and Disabled People. Britain’s Hidden Crisis* (2018), p 13: https://www.equalityhumanrights.com/sites/default/files/housing-and-disabled-people-britains-hidden-crisis-main-report_0.pdf [accessed 7 July 2021]

110 Written Answer [69601](#) (Session 2019–21)

111 [Q 4](#) (Catherine Casserley)

112 [Q 4](#) (Kamran Mallick)

113 [Q 15](#) (Melanie Field)

114 [Q 5](#) (Catherine Casserley)

115 [Q 5](#) (Catherine Casserley)

accessible, so you cannot really live there. You sort of exist, but you are not really living a life because of not being allowed to make what are called ... reasonable adjustments.”¹¹⁶ The EHRC likened the effect of the failure to commence section 36 as rendering disabled people “effectively a prisoner in [their] own home[s].”¹¹⁷

60. When asked when section 36 would be commenced, Charles Ramsden from the Government Equalities Office stated:

“I recognise the view that was taken in an earlier session this afternoon that the law is correct. It is not deficient in any way. None the less, its interactions with commonhold and leasehold law are quite complicated We are preparing a consultation, which we hope to issue soon, covering issues such as absentee landlords, sublets, service charges, facility grant applications, and a number of technical points on interaction with leasehold and commonhold law. We then need to consider whether any regulations have to be brought in before the implementation can be done. We are quite hopeful about progress at the moment, and would be looking to take further steps in the near future to get to the actual commencement.”¹¹⁸

61. **The Committee finds it objectionable that parts of the Equality Act, now over 10 years old, are still not in force. It is an affront to Parliament that its will expressed in legislation has been ignored or set aside by the executive.**
62. *The Committee finds the Government’s arguments for non-commencement of section 36 unconvincing. There is no reasonable justification for the Government’s delay. The Committee recommends that section 36 should be brought into force within six months of the publication of this report and that the Government outline a timeline for commencement in its response to this report.*

Sports stadia

63. The former Committee’s report of 2016 recommended that the Government introduce a Bill with similar provisions to those included in the Accessible Sports Grounds Bill introduced by Lord Faulkner of Worcester.¹¹⁹ The purpose of the Bill was to: “Make provision about the greater accessibility of sports grounds; and for connected purposes”.¹²⁰ The 2016 report stated that: [the] “Accessible Sports Grounds Bill... would give local authorities a discretionary power to refuse a safety certificate to any large sports stadia—not just football grounds—which do not comply with the accessible stadia guidelines published by the Sports Grounds Safety Authority”.¹²¹ The Bill was supported by other members of the Committee at second reading. It was agreed by the Lords, but blocked on second reading in the House of Commons on 11 March 2016.¹²²

116 [Q 4](#) (Kamran Mallick)

117 [Q 15](#) (Melanie Field)

118 [Q 23](#) (Charles Ramsden)

119 [Accessible Sports Grounds Bill \[HL\]](#) [Bill 123 (2015–16)]

120 [Accessible Sports Grounds Bill \[HL\]](#) [Bill 123 (2015–16)]

121 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 248

122 For stages of the Bill see Accessible Sports Grounds Bill [HL]: <https://bills.parliament.uk/bills/1583/stages>

64. The important context for this Bill, as outlined in the 2016 report, is that “the Equality Act 2010 has not succeeded in giving disabled sports fans the access to stadia to which they are entitled, and new measures are needed. A particular problem ... is the law’s requirement that only individuals may bring actions against institutions which are failing in their duty to comply with the Act. The nature of the relationship between a football fan and his or her own club is often deep rooted and passionate, and makes it hard for the fan to initiate proceedings.”¹²³
65. Evidence received in 2021 corroborated this, with Catherine Casserley stating that the reluctance of sports fans to take legal action “is one of the issues about stadia that is different from other services cases ... With sports stadia and sports clubs, I have often advised people, and in the end they have said, ‘I don’t want to bring a case, because I’m a supporter of that club and I don’t want to go against them.’”¹²⁴ Kamran Mallick described the inconsistency of accessible stadia as leading to disabled people being actively excluded from watching live sport within their community, “it means that they end up not going, so their only way of enjoying it is through the TV.”¹²⁵
66. In evidence to the Committee in 2016, the Minister for Disabled People’s comments regarding the provision for disabled people at sports grounds were referred to. The Minister, Justin Tomlinson MP, had described the provisions as “disgraceful.”¹²⁶ In evidence to the Liaison Committee in 2021, the Minister described how some progress had been made within the Premier League, but added that he “remain(s) frustrated that more has not been done” and that “as part of the national strategy” he had been “work[ing] very closely with the Activity Alliance” and intended to “keep pushing DCMS to keep pushing at their end, because we should have accessible sporting venues.”¹²⁷
67. *The Committee reiterates the 2016 recommendation that the Government include provisions similar to those of the Accessible Sports Grounds Bill in a Government Bill.*
68. *The Committee reiterates the 2016 recommendation that Ministers report regularly to Parliament in this regard on the progress made (a) by the Premier League and by the Football League, and (b) on comparable action by the operators of other large stadia.*

Transport

69. The 2016 report found that transport, by whatever means, presents one of the greatest challenges to disabled people.¹²⁸ The report made a number of recommendations relating to transport. One of the key recommendations was:

“The reasons offered by the Government for failing to bring section 165 ... into force 20 years after its enactment are entirely unconvincing.

123 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 247

124 [Q 5](#) (Catherine Casserley)

125 [Q 5](#) (Kamran Mallick)

126 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 246

127 [Q 19](#) (Justin Tomlinson MP)

128 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 271

Ministers should be considering the burden on disabled people trying to take taxis, not the burden on taxi owners or drivers... the remaining provisions of Part 12 of the Act should be brought into force forthwith.”¹²⁹

70. Sections 165 and 167 were commenced in April 2017.¹³⁰ Regrettably, section 163 has been on the statute books for over 20 years yet remains uncommenced.¹³¹ Section 163 makes taxi licences conditional on compliance with accessibility regulations. In 2017, the then Senior Deputy Speaker and Chair of the Liaison Committee wrote to the then Minister for Women and Equalities, Justine Greening MP, in order to follow up on the report’s recommendations.¹³² In this correspondence, the Senior Deputy Speaker asked the Minister why section 163 had not yet been brought into force. The Minister stated in her reply that the Government “currently had no plans to commence section 163 of the Equality Act.” The reasoning given was that traditional wheelchair accessible vehicles can be difficult for some ambulant disabled people¹³³ to access due to the high step and large floor area.¹³⁴ The letter stated that “the Government therefore encourages local licensing authorities to use their existing powers to ensure that the overall taxi and PHV fleets meet the needs of passengers... in many cases this will mean specifying the nature of accessible vehicles as to create a mixed fleet.”¹³⁵ The Minister cited a review by the working group on Taxi and private hire vehicle (PHV) Licensing as partially responsible for the delay.
71. The independent review ‘Taxi and private hire vehicle licensing: recommendations for a safer and more robust system’ was published in September 2018.¹³⁶ There is no mention of section 163 in the report.¹³⁷ The Government published their response to this report on 2 February 2019, there was no mention of section 163 in their response.¹³⁸

129 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 311

130 The Equality Act 2010 (Commencement No. 12) Order 2017 ([2017/107 \(C.12\)](#))

131 These sections were previously sections 32 to 39 of the [Disability Discrimination Act 1995](#), and are now Chapter 1 Part 12 of the Equality Act. Therefore, they have been on the statute book for 26 years.

132 Letter from the Chair of the Liaison Committee to the Minister for Women and Equalities on the Select Committee on the Equality Act 2010 and Disability (November 2017): [https://old.parliament.uk/documents/lords-committees/liaison/Letter-6-11-2017-to-Justine-Greening-\(Select-Committee-on-Equality-Act-2010-and-Disability\).pdf](https://old.parliament.uk/documents/lords-committees/liaison/Letter-6-11-2017-to-Justine-Greening-(Select-Committee-on-Equality-Act-2010-and-Disability).pdf)

133 Ambulant disabled is the terminology used to describe a disabled person who can walk but may have other accessibility needs.

134 Letter from the Minister for Women and Equalities to the Chair of the Liaison Committee on the Select Committee on the Equality Act 2010 and Disability (December 2017): <https://old.parliament.uk/documents/lords-committees/liaison/Letter-from-Justine-Greening-MP-to-Lord-McFall-on-the-Select-Committee-on-the-Equality-Act-and-Disability.pdf>

135 Letter from the Minister for Women and Equalities to the Chair of the Liaison Committee on the Select Committee on the Equality Act 2010 and Disability (December 2017): <https://old.parliament.uk/documents/lords-committees/liaison/Letter-from-Justine-Greening-MP-to-Lord-McFall-on-the-Select-Committee-on-the-Equality-Act-and-Disability.pdf>

136 Department for Transport, *Independent report Taxi and private hire vehicle licensing: recommendations for a safer and more robust system* (24 September 2018): <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-recommendations-for-a-safer-and-more-robust-system> [accessed 22 July 2021]

137 Department for Transport, *Independent report Taxi and private hire vehicle licensing: recommendations for a safer and more robust system* (24 September 2018): <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-recommendations-for-a-safer-and-more-robust-system> [accessed 22 July 2021]

138 Department for Transport, *Government response to report on a safer system of taxi and private hire vehicle licensing* (12 February 2019): <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-government-response-to-independent-report> [accessed 22 July 2021]

72. In 2021 the Committee asked witnesses about the Government’s failure to commence section 163. Catherine Casserley said that the only rational explanation for the lack of implementation was that the Government was prioritising the needs of businesses over the needs of disabled people:
- “Under section 163, on taxi licences and accessibility, certainly my understanding was that initially additional time was given because accessible vehicles would obviously be more expensive and there would be an impact on business As time has gone on, what appears to have happened, certainly from an objective perspective, is that what is considered to be a burden on business is outweighing the needs of disabled people to have access to taxis ... The Equality Act was passed in 2010, and we are now in 2021. That was 11 years ago, yet it remains unimplemented I do not know what other reason there would be. The drafting appears to be fine. I have not seen a reason given for its non-implementation.”¹³⁹
73. Kamran Mallick, CEO of Disability Rights UK agreed with Catherine Casserley’s position, stating: “I agree with everything Catherine has said ... Enough time has passed for companies and individuals who run taxi businesses to have made the changes.”¹⁴⁰
74. When asked why the Government had not commenced section 163 of the Equality Act, Baroness Vere of Norbiton, Parliamentary Undersecretary of State for Transport stated: “I appreciate that the purpose of section 163¹⁴¹ of the Equality Act was to ensure that taxis could be licensed only if they conformed to accessibility standards Section 163 applies only to taxis. It does not apply to PHVs [Private Hire Vehicles] We are approaching this very much by looking at the powers that local licensing authorities already have to specify what sort of wheelchair-accessible vehicles they have in their local area.”¹⁴²
75. The evidence received by the Committee demonstrates that commencing section 163 does not preclude the Government from enforcing regulations that would ensure that PHV licenses are dependent on meeting accessibility criteria. Furthermore, the identification of a loophole in section 163 regarding PHVs does not justify inaction. Rather, it predicates closing the loophole and thus ensuring that PHV licences are also conditional on accessibility.
76. In their submission to inform the National Strategy for Disabled People, the EHRC identified outstanding barriers faced by disabled people in accessing public transport. The EHRC recommended that the Government take action to “Review the relevant regulatory framework governing taxi and private hire [vehicle] accessibility, including possibilities for implementing some or all of the outstanding provisions in Part 12 of the Equality Act 2010 and considering whether additional regulations may be needed to address remaining gaps in protections.”¹⁴³

139 [Q 2](#) (Catherine Casserley)

140 [Q 2](#) (Kamran Mallick)

141 Equality Act 2010, [section 163](#)

142 [Q 20](#) (Baroness Vere of Norbiton)

143 Equality and Human Rights Commission, *EHRC Briefing on Development of National Disability Strategy* (12 February 2021): available at <https://www.equalityhumanrights.com/en/ymatebion-cyfreithiol/parliamentary-briefings> [accessed 22 July 2021]

77. In evidence to the Committee, the Discrimination Law Association (DLA) stated that: “The government’s position appears to be that it would not be right to commence [the provision] because it does not go far enough (in that PHVs are not covered by section 163). That explanation is not sufficient to refuse to commence it, but it may affect what else needs to be done.”¹⁴⁴ The DLA suggested that the Government’s focus should be on ensuring that there is “a fleet which can cater for the needs of a diverse group of disabilities and that accessibility can be achieved by requirements on drivers to ensure that they provide reasonable adjustments to ensure accessibility.” The DLA advised that accessibility is partly reliant on “requirements relating to vehicle design (the mischief section 163 is designed to address)” and that “other aspects could be achieved by better guidance to councils on how they should have due regard to the needs of disabled persons when issuing conditions on licences, and on how they can avoid acting unlawfully under other existing provisions of the Equality Act 2010.” The DLA suggested that the EHRC could play a role in mitigating the effects of the failure to commence section 163 by “issuing statutory or non-statutory guidance in relation to accessibility issues.”¹⁴⁵
78. The Committee welcomes the Government’s attention to the pressing needs of disabled people’s access to taxis and PHVs and hope that the current Disabled Persons (Taxis and Private Hire Vehicles) Bill¹⁴⁶ will address many of the outstanding issues.
79. ***The Government must take action to ensure that all public transport is accessible to disabled people as a matter of urgency. The Committee recommends that section 163 of the Equality Act is amended to apply to Private Hire Vehicles (PHVs) as well as taxis, and commenced without further delay.***
80. ***The Committee recommends that the following bold wording is inserted into section 163, so that the section reads as follows:***
- “163 Taxi or **Private Hire Vehicle** licence conditional on compliance with taxi and **Private Hire Vehicle** accessibility regulations*
- (1) A licence for a taxi to ply for hire (**or to operate a Private Hire Vehicle**) must not be granted unless the vehicle conforms with the provisions of taxi (**and Private Hire Vehicle**) accessibility regulations with which a vehicle is required to conform if it is licensed.*
- (2) Subsection (1) does not apply if a licence is in force in relation to the vehicle at any time during the period of 28 days immediately before the day on which the licence is granted.*
- (3) The Secretary of State may by order provide for subsection (2) to cease to have effect on a specified date.*
- (4) The power under subsection (3) may be exercised differently for different areas or localities (**or ages of vehicle**).”*
81. ***The Committee recommends that the Government outline their timetable for the public consultation on best practice guidance for***

144 Supplementary written evidence from Discrimination Law Association ([EAF0002](#))

145 Supplementary written evidence from Discrimination Law Association ([EAF0002](#))

146 [Taxis and Private Hire Vehicles \(Disabled Persons\) Bill](#) [Bill 30 (2021–22)]

licensing authorities in their response to this report. The Committee recommends that the guidance is published within 12 months of this report being published.

Access to justice

Qualified One-way Costs Shifting (QOCS) for discrimination claims

82. The 2016 report found significant barriers were faced by disabled people seeking access to justice. This was partly due to the costs involved.¹⁴⁷
83. In order to ensure access to justice for disabled people, the Committee's 2016 report recommended that "The Civil Procedure Rules should be amended to apply Qualified One-Way Costs Shifting (QOCS)¹⁴⁸ to discrimination claims under the Equality Act".¹⁴⁹ The 2017 report of the Women and Equalities Committee on Disability and the Built Environment also called for the extension of QOCS to discrimination claims.¹⁵⁰
84. In their response to the 2016 report, the Government stated that: "it would keep the case for extending QOCS to other areas under review In any event, the Government is committed to undertaking a post-implementation review of Part 2 of the LASPO Act in 2018. Access to justice considerations, including whether QOCS should be extended to other categories of law, will be addressed as part of that review."¹⁵¹
85. In 2017, in correspondence with the Chair of the Liaison Committee, the then Minister for Women and Equalities reiterated this position, stating that:
- "Developing a QOCS regime for other types of cases is a complex issue and one that needs to be carefully considered to ensure that the policy and rules are right and fair. This is because different considerations apply in different types of case including (i) whether QOCS should apply, and, if so, (ii) to which class(es) of litigant and case it should apply, and (iii) what case-specific provisions are needed. Whether QOCS should be extended further will be considered as part of post-implementation review of Part 2 of the Legal Aid Sentencing Punishment of Offenders Act 2012 in 2018 [LASPO]."¹⁵²

147 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), p 6

148 Qualified One-way Costs Shifting (QOCS) applies to personal injury claims commenced after 1 April 2013. It provides that a bona fide, losing claimant will not have to bear the Defendant's costs, save for in a small set of circumstances. Ministry of Justice, *Qualified one-way costs shifting: scope and interpretation 44.13, Part 44, General rules about costs*, (6 April 2021): <http://www.justice.gov.uk/courts/procedure-rules/civil/rules/part-44-general-rules-about-costs#rule44.13> [accessed 22 July 2021]

149 Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people* (Report of Session 2015–16, HL Paper 117), para 402

150 Women and Equalities Committee, *Building for Equality: Disability and the Built Environment* (Ninth Report, Session 2016–17, HC 631)

151 HM Government, *Government Response to the House of Lords Select Committee Report on The Equality Act 2010: The impact on disabled people*, Cm 9283 (July 2016): <https://old.parliament.uk/documents/lords-committees/equality-act/Govt-Response-to-HoL-SC-Report-on-the-EA2010.pdf>

152 Letter from the Minister for Women and Equalities to the Chair of the Liaison Committee on the Select Committee on the Equality Act 2010 and Disability (December 2017): <https://old.parliament.uk/documents/lords-committees/liaison/Letter-from-Justine-Greening-MP-to-Lord-McFall-on-the-Select-Committee-on-the-Equality-Act-and-Disability.pdf>

86. The Government’s review of Part 2 of the LASPO reforms, including the possible extension of QOCS, was published in February 2019.¹⁵³ It concluded that on balance the Part 2 reforms were meeting their objectives, so it did not propose any amendments to the Act. The Government said it would keep the “suggestions for reform of rules and regulations under review”, and whilst no “immediate changes” were proposed, some of the issues “[might be] revisited at a later stage.”¹⁵⁴
87. In February 2020 the High Court dismissed a judicial review seeking the extension of QOCS to discrimination claims in all civil courts. Mr Justice Cavanagh held that the Lord Chancellor had not breached the PSED in considering such an extension or some other form of costs protection and that the present legal position on costs was proportionate and complied with the ECHR, Articles 6 and 14.¹⁵⁵ Evidence submitted by the Ministry of Justice to this case stated that there could be a consultation exercise and then a pilot, stating that a pilot “could be a useful way of testing the advantages and disadvantages of extending costs protection in this way. It could particularly be used to examine whether there are any significant increases in costs to government/defendants or in unmeritorious claims.”¹⁵⁶ However, the submission also stated that “there were limitations on the data that could be collected by a pilot scheme”, and thus a pilot may not be feasible. **The Committee finds the Government’s stance on this matter disappointing. The Government should be focusing on the impact of the current costs regime on disabled people and the fact that it is preventing disabled persons from accessing justice.**
88. Many witnesses expressed support for the extension of qualified one-way costs shifting to cover discrimination claims. Declan O’Dempsey from the Discrimination Law Association (DLA) stated: “If qualified one-way costs shifting were applied, it would have the obvious effect that disabled people would be able to bring proceedings without facing a risk of costs.”¹⁵⁷ Written evidence from the DLA stated that the impact of the current costs regime on discrimination cases has been that “since 2013.. claims of this nature have dropped off a cliff.”¹⁵⁸ The DLA argued that “the rationale that legal aid remains available is insufficient... [it does] not deal with the threat of costs to those who are close to but fail the means test for Legal Aid.”¹⁵⁹
89. The EHRC informed the Committee that: “We recommended, in our response to the post-implementation review of Part 2 of LASPO, that the QOCS scheme protection should be extended to discrimination cases brought under section 114 of the Equality Act 2010. The absence of that, and the cost risks for claimants, genuinely pose significant barriers. We have already heard that in the earlier witness statements. We think it is really important that the scheme is extended to discrimination cases.”¹⁶⁰

153 Ministry of Justice, *Post-Implementation Review of Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)* (7 February 2019): <https://www.gov.uk/government/publications/post-implementation-review-of-part-2-of-laspo> [accessed 22 July 2021]

154 Ministry of Justice, *Post-Implementation Review of Part 2 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)* (7 February 2019): <https://www.gov.uk/government/publications/post-implementation-review-of-part-2-of-laspo> [accessed 22 July 2021]

155 *Leighton, R (on the Application of) v The Lord Chancellor* (2020) EWHC 336

156 *Leighton, R (on the Application of) v The Lord Chancellor* (2020) EWHC 336

157 **Q 7** (Declan O’Dempsey)

158 Written evidence from Discrimination Law Association (**EAF0001**)

159 Written evidence from Discrimination Law Association (**EAF0001**)

160 **Q 16** (Caroline Waters)

90. When asked if the Government would extend QOCS to cover discrimination claims, Parliamentary Under Secretary of State at the Ministry of Justice Lord Wolfson of Tredegar QC stated: “In our post-implementation review of Part 2 of LASPO, we left open the possibility of an extension of QOCS, if I can call it that, because we were, and still are—I underline ‘still are’—actively considering whether to extend cost protection to discrimination claims.”¹⁶¹ When asked to confirm the Government’s timeframe for making a decision on this area, the Minister indicated that this would be outlined in the Government response to this report.¹⁶² The Committee is of the view that it is integral that disabled people are able to uphold their rights and do not face financial penalties for doing so. *The Committee reiterates the 2016 recommendation that: “The Civil Procedure Rules should be amended to apply Qualified One-Way Costs Shifting to discrimination claims under the Equality Act”. It recommends that this is actioned within six months of the publication of this report.*
91. The Committee asked Lord Wolfson of Tredegar QC if the Government would consider abolishing tribunal fees for discrimination claims in order to counter the withdrawal of legal aid and the removal of the ability to claim back premiums for after-the-event insurance for discrimination claims.¹⁶³ Lord Wolfson stated that: “there is an underlying principle, which is that we run the Courts and Tribunals Service on the basis that those who use it and can pay should pay. Otherwise, you find that people who could afford to pay are subsidised by the general taxpayer, which will include people on much lower earnings and with much lower levels of assets. The fees that are charged help to fund the system and therefore help to ensure access to justice.”¹⁶⁴
92. Lord Wolfson explained that as a result of a recent Supreme Court case,¹⁶⁵ “fees are no longer charged in the employment tribunal, because it was held that the Government had not struck the right balance in determining the fees for the employment tribunal.”¹⁶⁶ However, in all other cases, “fees are charged for those who can afford to pay.”¹⁶⁷ Lord Wolfson explained that financial aid for those for whom legal costs would be prohibitive is available via the “fees remission scheme.” He stated that this criteria “are due to be reviewed and uprated” and that the Government “have had a recent public consultation” on this matter.¹⁶⁸
93. *The Committee were pleased to hear that the Government are reviewing the fees remission scheme. The Committee recommends that the Ministry of Justice give clearer guidance to the legal aid authorities about the importance of extending this funding to discrimination cases.*

161 [Q 21](#) (Lord Wolfson of Tredegar)

162 [Q 21](#) (Lord Wolfson of Tredegar)

163 [Q 21](#) (Baroness Browning)

164 [Q 21](#) (Lord Wolfson of Tredegar)

165 *R (UNISON) v Lord Chancellor* (2017) UKSC 51

166 [Q 21](#) (Lord Wolfson of Tredegar)

167 [Q 21](#) (Lord Wolfson of Tredegar)

168 [Q 21](#) (Lord Wolfson of Tredegar)

SUMMARY OF RECOMMENDATIONS AND CONCLUSIONS

Government Leadership and Strategy

1. The Committee hopes that information about the current status of this group will be included in the Government's response to this report. (Paragraph 20)
2. *The Committee recommends that the Government include an update on the progress made with this legislation in their response to this report. If the Government does intend to move forward with this legislation, the Committee recommends that it consults closely with the EHRC and Disabled People's organisations.* (Paragraph 22)
3. *The Committee reiterates the 2016 recommendation that "any new relevant public sector ombudsman be given an explicit remit to secure compliance with the Equality Act 2010 in the services for which it is responsible."* (Paragraph 23)
4. *The Committee looks forward to receiving in the Government's response to this report a detailed outline of how the Minister for Disabled People and the Prime Minister will oversee the implementation of the strategy. It is crucial that the National Strategy should not displace the need to enact the recommendations made in the 2016 Report. The Strategy should include them along with indications as to how they are to be implemented. We recommend that a timetable and details of the mechanisms for oversight and coordination, including Cabinet Committees and inter-ministerial groups, is published within three months of the publication of the strategy to ensure that the needs of disabled people are met without delay.* (Paragraph 25)
5. *The Committee notes that the Minister for Women and Equalities role is currently part of a mixed portfolio. In order to give due regard to this important and complex policy area, the Committee recommends that the Government consider making the Minister for Women and Equalities a stand-alone, full-time role. The Minister should be part of the Cabinet Office team, with the right to attend Cabinet.* (Paragraph 26)
6. *The Minister should continue to work closely with the Minister for Disabled People to deliver the National Strategy for Disabled people. The Committee urges the Government to consider recommendations made by the Women and Equalities Committee that Junior ministerial roles should also be based in the Cabinet Office, but could be jointly held with departments whose remits reflect the Government's top equalities priorities at the time, such as the Home Office, Department for Work and Pensions or the Ministry of Housing, Communities and Local Government.* (Paragraph 27)
7. *The Committee is disappointed to see that the Cabinet Social Justice Committee has been disbanded, with no obvious replacement to discuss these crucial issues. The Committee supports the recommendation made by the Women and Equalities Committee that a Cabinet sub-committee for equalities should be established, chaired by the Minister for Women and Equalities. The Minister for Disabled People should be a member of this Committee.* (Paragraph 28)

Public Sector Equality Duty (PSED)

8. *The Committee reiterates the 2016 recommendation that the following subsection be added to section 149: "To comply with the duties in this section, a public authority in the exercise of its functions, or a person within subsection (2) in the exercise of its public functions, shall take all proportionate steps towards the achievement of the matters mentioned in subsection (1)."* (Paragraph 45)

9. *The Committee reiterates the 2016 recommendation that: that the Government replace the Equality Act 2010 (Specific Duties) Regulations 2011 with provisions that require a listed public authority to develop and implement a plan of action setting out how they will meet the requirements of the general duty in all of their functions. (Paragraph 46)*

Reasonable Adjustments

10. *The Committee finds it objectionable that parts of the Equality Act, now over 10 years old, are still not in force. It is an affront to Parliament that its will expressed in legislation has been ignored or set aside by the executive. (Paragraph 61)*
11. *The Committee finds the Government’s arguments for non-commencement of section 36 unconvincing. There is no reasonable justification for the Government’s delay. The Committee recommends that section 36 should be brought into force within six months of the publication of this report and that the Government outline a timeline for commencement in its response to this report. (Paragraph 62)*
12. *The Committee reiterates the 2016 recommendation that the Government include provisions similar to those of the Accessible Sports Grounds Bill in a Government Bill. (Paragraph 67)*
13. *The Committee reiterates the 2016 recommendation that Ministers report regularly to Parliament in this regard on the progress made (a) by the Premier League and by the Football League, and (b) on comparable action by the operators of other large stadia. (Paragraph 68)*
14. *The Government must take action to ensure that all public transport is accessible to disabled people as a matter of urgency. The Committee recommends that section 163 of the Equality Act is amended to apply to Private Hire Vehicles (PHVs) as well as taxis, and commenced without further delay. (Paragraph 79)*
15. *The Committee recommends that the following bold wording is inserted into section 163, so that the section reads as follows:*
- “163 Taxi or **Private Hire Vehicle** licence conditional on compliance with taxi **and Private Hire Vehicle** accessibility regulations*
- (1) A licence for a taxi to ply for hire (**or to operate a Private Hire Vehicle**) must not be granted unless the vehicle conforms with the provisions of taxi (**and Private Hire Vehicle**) accessibility regulations with which a vehicle is required to conform if it is licensed.*
- (2) Subsection (1) does not apply if a licence is in force in relation to the vehicle at any time during the period of 28 days immediately before the day on which the licence is granted.*
- (3) The Secretary of State may by order provide for subsection (2) to cease to have effect on a specified date.*
- (4) The power under subsection (3) may be exercised differently for different areas or localities (**or ages of vehicle**).” (Paragraph 80)*
16. *The Committee recommends that the Government outline their timetable for the public consultation on best practice guidance for licensing authorities in their response to this report. The Committee recommends that the guidance is published within 12 months of this report being published. (Paragraph 81)*

Access to justice

17. The Committee finds the Government's stance on this matter disappointing. The Government should be focusing on the impact of the current costs regime on disabled people and the fact that it is preventing disabled persons from accessing justice. (Paragraph 87)
18. *The Committee reiterates the 2016 recommendation that: "The Civil Procedure Rules should be amended to apply Qualified One-Way Costs Shifting to discrimination claims under the Equality Act". It recommends that this is actioned within six months of the publication of this report. (Paragraph 90)*
19. *The Committee were pleased to hear that the Government are reviewing the fees remission scheme. The Committee recommends that the Ministry of Justice give clearer guidance to the legal aid authorities about the importance of extending this funding to discrimination cases. (Paragraph 93)*

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Bradley
 Baroness Campbell of Surbiton
 Lord Davies of Surbiton
 Lord Gardiner of Kimble (Chair)
 Baroness Hayter of Kentish Town
 Earl Howe *
 Lord Judge
 Lord Lang of Monkton
 Lord Smith of Hindhead
 Lord Tyler
 Baroness Walmsley

The following members of the former Select Committee on the Equality Act 2010 and Disability Committee participated in the meetings:

Baroness Browning
 Baroness Deech
 Lord Faulkner of Worcester
 Baroness Thomas of Winchester

Declarations of interest

Lord Bradley
No relevant interests to declare

Baroness Browning
*A Vice President of the National Autistic Society
 Ambassador of The Alzheimer's Society*

Baroness Campbell of Surbiton
No interests declared

Lord Davies of Oldham
No relevant interests to declare

Baroness Deech
*Former Chair Select Committee on the Equality Act 2010 and Disability
 2015–16*

Lord Faulkner of Worcester
*Vice-president Level Playing Field
 Chair Great Western Railway Advisory Board
 President Heritage Railway Association*

Lord Gardiner of Kimble
No relevant interests to declare

Baroness Hayter of Kentish Town
No relevant interests to declare

Lord Judge
No relevant interests to declare

Lord Lang of Monkton
*Chairman of Lovat Parks Ltd, a company that owns and manages holiday
 parks*

Lord Smith of Hindhead

No relevant interests to declare

Baroness Thomas of Winchester

Trustee, Muscular Dystrophy UK

Lord Tyler

No relevant interests to declare

Baroness Walmsley

No relevant interests to declare

* Earl Howe has recused himself from this inquiry on grounds of ministerial propriety.

A full list of members' interests can be found in the Register of Lords' Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-interests/register-of-lords-interests>

The Clerk volunteers for Facial Palsy UK and is a founder member and co-leader of its London support group.

The Committee Operations Officer volunteers for the British Red Cross.

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/1261/equality-act-2010-and-disability-committee-followup/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in alphabetical order.

Alphabetical list of witnesses

Marcus Bell, Director at the Government Equalities Office	QQ 18–25
Catherine Casserley, Barrister and former specialist adviser to the Equality Act 2010 and Disability Committee	QQ 1–6
Discrimination Law Association	EAF0001 EAF0002
Melanie Field, Executive Director—Strategy, Policy, Legal and Wales at the Equality and Human Rights Commission	QQ 12–17
Kamran Mallick, CEO at Disability Rights UK	QQ 1–6
Jessica Matthews, Co-Director, Local Roads Places and Environment Group at the Department for Transport	QQ 18–25
Declan O’Dempsey, Executive Committee member at Discrimination Law Association	QQ 7–11
Charles Ramsden, Deputy Director at the Government Equalities Office	QQ 18–25
Justin Tomlinson MP, Minister for Disabled People, Health and Work at the Department for Work and Pensions	QQ 18–25
The Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport	QQ 18–25
The Lord Wolfson of Tredegar QC, Parliamentary Under Secretary of State at Ministry of Justice	QQ 18–25

APPENDIX 3: ACRONYMS

DDA	Disability Discrimination Act 1995
DLA	Discrimination Law Association
DWP	Department for Work and Pensions
EHRC	Equality and Human Rights Commission
GEO	Government Equalities Office
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
PSED	Public Sector Equality Duty
QOCS	Qualified One-way Costs Shifting