



Women and Equalities Committee

House of Commons London SW1A 0AA

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From the Chair

Rt Hon James Brokenshire MP
Secretary of State for Housing, Communities and Local Government

11 July 2018

Dear James,

I am writing in follow up to the Government response to my Committee's report into Disability and the Built Environment, 'Building for Equality'. We published that report in April 2017, and received the Government response on 15 March this year. The Committee has asked me to write to you expressing its deep disappointment with that response and to ask you to give oral evidence to the Committee on the policy decisions made in response to our report. We will liaise with your officials on a date for this.

The commitment made in your response to establish a new cross-Whitehall group to facilitate a more cohesive and joined up approach to disability and the built environment is welcome. It does not, however, represent the kind of strategic approach called for in our report. Much of the Government response does not engage with the content of our recommendations or the evidence on which they are based. Perhaps most seriously, the response does not accept that outcomes under the current system are unsatisfactory, and that an approach founded on inclusive design is needed.

I am particularly disappointed that the Government has not taken the opportunity of the draft National Planning Policy Framework to meet our recommendation that the NPPF incorporate a dedicated section on access for disabled people and inclusive design. This is a missed opportunity. The rejection of our recommendation to remove the requirement on local authorities to prove a need for accessible housing fails to recognise that demographic change means the need for accessible homes is nationwide. The refusal to raise the minimum accessibility standard for new homes fails to recognise that disabled people are equal citizens who have the same right as anyone else to choose where they live.

I corresponded with the (then) Parliamentary Under Secretary of State for Transport, Paul Maynard MP, regarding the failings of the draft Accessibility Action Plan in October 2017. He assured me that many of our concerns would be addressed in the Government response to our report. Unfortunately, this is not the case and the rejection of our recommendations on shared spaces is particularly unfortunate given the high levels of concern that continue to be expressed about this type of highway design. I am therefore copying this letter to the Secretary of State for Transport, Rt Hon Chris Grayling MP.

In advance of your Department's further oral evidence to us, we ask that you provide a fuller response to those recommendations where the response has not yet engaged with the substance of the recommendations or the evidence underlying it, or has not explained how it plans to take forward

actions committed to. I set these areas out in annex to this letter, and look forward to receiving your response. It would be most helpful to receive that response by 3 September.

Yours sincerely,

A handwritten signature in blue ink that reads "Maria Miller". The signature is written in a cursive style with a small dot above the 'i' in Miller.

Rt Hon Maria Miller MP
Chair, Women and Equalities Committee

Cc Rt Hon Chris Grayling MP, Secretary of State for Transport

Annex 1 – recommendations where the Government response has not engaged with the recommendation or the evidence, on which the Committee would like a further written response.
Involvement of disabled people

We recommend that best practice guidance is produced by DCLG [now MOHCLG] in partnership with disabled people's organisations to provide guidance for local authorities and built environment professionals on how and when to involve disabled people in the processes which lead to the creation of built or external environments. (paragraph 36)

In rejecting the recommendation, the Government states that the involvement of disabled people needs to be tailored for the different stages in the development process and in relation to different regulatory and legal regimes-precisely what the recommendation seeks to achieve. The response gives the example of a number of public consultations that have engaged with disabled people, but not of the type of involvement nor from the contexts that the recommendation refers to.

Leading by example

Procurement

We recommend that the Government ensures, as a minimum, compliance with existing regulations by proactively setting out inclusive design and accessibility standards to be required of all publicly-funded works. (paragraph 44)

Evidence received during the inquiry showed that the local approach cited in the Government response is not resulting in the use of procurement to improve accessibility, and nor is the public sector equality duty. This is not acknowledged in the response which fails to engage with this evidence.

Fiscal initiatives

We recommend that the Government undertake a review into the possibility of using tax exemptions, and specifically VAT exemptions, for the installation of specific physical features that improve accessibility to incentivise building works which improve access for disabled people to, from and within buildings and facilities. (paragraph 48)

The response appears to have misunderstood this recommendation. It sets out a range of existing VAT exemptions, none of which incentivise building works that improve accessibility in buildings and facilities, and does not address other forms of tax exemptions that could be used.

Buildings where public services are delivered

Taking British Standard 8300 as the starting point, the Government should require public authorities to publish information on the accessibility of buildings owned or used by them, along with information on how accessibility is managed and maintained. (paragraph 52)

The Government response does not address this recommendation. It sets out the arguments against a kitemark scheme – something discussed in the evidence supporting the recommendation but not included in the recommendation.

Inclusive design and the National Planning Policy Framework

We recommend that the Government amend the National Planning Policy Framework and the National Planning Practice Guidance to incorporate a dedicated section on access for disabled people and inclusive design for local planning authorities and decision-takers. This should provide details of the requirements on how local planning authorities should address these subjects in terms of planning and design of the built environment and public spaces as well as housing. (paragraph 65)

We recommend that the Government make clear in the revisions to the NPPF (recommended above) that planning consent should only be given where there is evidence that a proposal makes sufficient provision for accessibility and inclusion. (paragraph 76)

The response states that the Government agrees with the spirit of this recommendation and that the National Planning Policy Framework should support the importance of inclusive design. However, we cannot find evidence of this in either the details of the response or in the draft National Planning Policy Framework recently subject to public consultation, suggesting that the Government has not engaged with the substance of the recommendation.

The role of the Planning Inspectorate in Local Plans

We recommend that [...] the Government direct the Planning Inspectorate to pay closer attention to ensuring, as the NPPF sets out, that plans are founded on an inclusive design approach, and specifically that no Local Plan documents are to be judged 'sound' without evidence that they address access for disabled people in terms of housing, public spaces and the wider built environment. (paragraph 71)

The response expresses confidence that inspectors fully understand their role in the existing process of judging whether a plan is 'sound', but does not engage with the recommendation that no plan be judged 'sound' without evidence that they address access for disabled people. It references updated advice from the Planning Inspectorate to Inspectors, but does not specify the content of this advice.

Planning applications

The White Paper on housing offers an opportunity for the Government to work with local authorities on ensuring access to the specialist expertise necessary to support the creation of an accessible and inclusive built environment, and we fully expect it to take that opportunity. (paragraph 80)

The response misunderstands this recommendation as an endorsement of the approach in the White Paper. It does not address the recommendation as made, which is to use the White Paper as a vehicle for further work. The response focuses on funding for general planning services, while the recommendation was that the Government proactively work with local authorities to ensure access to specialist expertise.

Government policy on increasing the supply of housing

We recommend that, once the new guidance under the Neighbourhood Planning Bill is adopted, the Department for Communities and Local Government undertake an audit of local plans to identify those that do, or do not, meet that guidance. Where this audit reveals gaps in accessible housing policies, the

Government must take action to press local authorities to amend their Local Plans in line with the new guidance as a matter of urgency. (paragraph 93)

The Government response does not address the recommendation, but rather re-states the existing system that was found by the report to be flawed.

Improving supply through standards for new homes

We recommend that the limits of application of the Building Regulations applicable to Part M Vol. 1 be amended so that Part M and its optional requirements apply to all new dwellings—both new build and conversions. (paragraph 104)

The response states that the Government intends to consider the matter further and commission further work on the impacts of changing the limits of application, but does not provide a timeframe for doing so.

Building regulations for buildings other than dwellings

Approved Document M of the Building Regulations (Volume 2) (buildings other than dwellings) should be updated to ensure it is still relevant and adequately addresses access for disabled people today, adopting an inclusive design, pan-impairment approach. The starting point for this should be guidance in the emerging British Standards on the subject, with the aim of ‘levelling up’ Approved Document M guidance as new standards are developed. (paragraph 134)

While the Government has agreed with the Committee that the current statutory guidance in the Approved Documents is out of date, it does not commit to updating the Guidance. The request to BRAC to consider the scope for reviewing the guidance may lead to this, but may not. A timeframe is not provided.

Changing places toilets

We recommend that the update to the requirements of Part M Vol. 2’s approved document include a requirement to provide a Changing Places toilet in all large building developments which are open to the public, unless it can be demonstrated that adequate provision is already in place locally. This will require DCLG to undertake an assessment of what is reasonable to define as a ‘large’ development for these purposes—but we expect that as a minimum the requirement will apply to, for example, large shopping centres. (paragraph 142)

Much of the response relates to work to increase the provision of Changing Places Toilets on a voluntary basis – which was considered and welcomed by the report. The response states that the Government will include consideration of Changing Places toilets in certain types of buildings in the request to BRAC to assess the scope for reviewing the statutory guidance, but does not provide a timescale for this work.

The requirements of the equality act and the enforcement of those requirements

We recommend that the Government amend the Licensing Act 2003 to mandate local authority Licensing Officers to act on failures to make licensed premises accessible. (paragraph 154)

The response states that further consultation will be undertaken on this issue, but does not provide a timeframe for that consultation or for when it expects to be able to bring forward proposals, whether through regulation or as hoped by the response through a non-regulatory approach.

Shared spaces

We recommend that the Government require local authorities to call a halt to the use of shared space schemes, pending clear national guidance that explicitly addresses the needs of disabled people. This should, in particular, instruct local authorities that controlled crossings and regular height kerbs are to be retained and that they should undertake an urgent review of existing schemes, working with disabled people in their area to identify the changes that are necessary and practicable. (paragraph 173)

We recommend that the Government takes a clear lead and urgently replaces the 2011 Local Transport Note on shared spaces with new guidance, founded on an inclusive design approach, to ensure that any resultant schemes are inclusive, navigable and welcoming for disabled people. This guidance should:

- a) be developed with disabled people;*
- b) explicitly address the needs of all disabled people, including but not limited to people who are blind and partially sighted, people who have ambulant mobility difficulties and people with a neuro-diverse condition or learning disability;*
- c) lay down consistent national standards so that disabled people can navigate, learn and independently use such schemes anywhere in the country;*
- d) be clear that safety and usability requirements, such as controlled crossings and kerbs, are not optional;*
- e) Provide details on how the requirements of the public sector equality duty and the duty to make reasonable adjustments apply to the design and implementation of such schemes. (paragraph 181)*

The response fails to engage with the substantial amount of evidence on the problems that shared spaces schemes create for disabled people. It relies on the work by the Chartered Institution of Highways and Transportation (CIHT) on shared spaces, stating that it is considering the report of that work, published in January 2018. It does not provide a timescale for that consideration.

We recommend that the Government bring forward Regulations under section 22(2)(a) of the Equality Act 2010 to specify that organisations which fail to comply with the new guidance recommended above will not be considered to have taken reasonable steps for purposes of the duty to make reasonable adjustments. This will make it easier for disabled individuals to establish discrimination contrary to section 21 of the Equality Act 2010. (paragraph 182)

The response does not address this recommendation

The Government should also ensure that advice is readily available for individuals on how to challenge local authorities on existing or new schemes which exclude or have the potential to exclude disabled people. (paragraph 183)

The response does not address this recommendation.