



House of Lords
House of Commons
Joint Committee on Human
Rights

**UN Convention on the
Rights of Persons with
Disabilities:
Government Response
to the Committee's
First Report of Session
2008–09**

Sixth Report of Session 2008–09

*Report, together with formal minutes and
appendix*

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Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

Current membership

HOUSE OF LORDS

Lord Bowness
Lord Dubs
Lord Lester of Herne Hill
Lord Morris of Handsworth OJ
The Earl of Onslow
Baroness Prashar

HOUSE OF COMMONS

John Austin MP (Labour, *Erith & Thamesmead*)
Mr Andrew Dismore MP (Labour, *Hendon*) (Chairman)
Dr Evan Harris MP (Liberal Democrat, *Oxford West & Abingdon*)
Mr Virendra Sharma MP (Labour, *Ealing, Southall*)
Mr Richard Shepherd MP (Conservative, *Aldridge-Brownhills*)
Mr Edward Timpson MP (Conservative, *Crewe & Nantwich*)

Powers

The Committee has the power to require the submission of written evidence and documents, to examine witnesses, to meet at any time (except when Parliament is prorogued or dissolved), to adjourn from place to place, to appoint specialist advisers, and to make Reports to both Houses. The Lords Committee has power to agree with the Commons in the appointment of a Chairman.

Publications

The Reports and evidence of the Joint Committee are published by The Stationery Office by Order of the two Houses. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/commons/selcom/hrhome.htm.

Current Staff

The current staff of the Committee are: Mark Egan (Commons Clerk), Rebecca Neal (Lords Clerk), Murray Hunt (Legal Adviser), Angela Patrick and Joanne Sawyer (Assistant Legal Advisers), James Clarke (Senior Committee Assistant), Emily Gregory and John Porter (Committee Assistants), Joanna Griffin (Lords Committee Assistant) and Keith Pryke (Office Support Assistant).

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Contents

Report	<i>Page</i>
Report	4
Formal Minutes	5
Appendix	6
Letter from Jonathan Shaw MP, Minister for Disabled People	6
List of Reports from the Committee during the current Parliament	17

Report

Under cover of a letter of 3 March from Jonathan Shaw MP, Minister for Disabled People, we have received the Government's Response to our First Report of this Session, *The UN Convention on the Rights of Persons with Disabilities* (HL Paper 9, HC 93). We publish this Response as an Appendix to this Report.

Formal Minutes

Tuesday 3 March 2009

Members present:

Mr Andrew Dismore MP, in the Chair

Lord Bowness	John Austin MP
Lord Dubs	Dr Evan Harris MP
Lord Morris of Handsworth	Mr Virendra Sharma MP
The Earl of Onslow	Mr Richard Shepherd MP
Baroness Prashar	

Draft Report (*UN Convention on Disability Rights: Government Response to the Committee's First Report of Session 2008-09*), proposed by the Chairman, brought up and read the first and second time, and agreed to.

A Paper was ordered to be appended to the Report.

Resolved, That the Report be the Sixth Report of the Committee to each House.

Ordered, That the Chairman make the Report to the House of Commons and that Lord Dubs make the Report to the House of Lords.

[Adjourned till Tuesday 10 March at 1.30pm.]

Appendix

Letter from Jonathan Shaw MP, Minister for Disabled People, dated 3 March 2009

I am enclosing the Government's response to the Joint Committee's report of 4th January 2009 in respect of our work towards ratification of the UN Convention on the Rights of Persons with Disabilities.

I am also delighted to be able to enclose a copy of the Explanatory Memorandum for ratification of the Convention which has today been laid before Parliament.¹

I am grateful for the support you have expressed for ratification of the Convention, and I know that you will be pleased that the Parliamentary processes leading to ratification have now started. I know also that you will welcome the signing of the Optional Protocol to the UN Convention which took place in New York on 26th February.

The Government has always been very clear about the benefits of this important Convention, and we share the view of the Committee that ratification will send a strong and positive message to all disabled people in the UK and abroad – and to those who are not disabled – that the Government takes equality and the protection of human rights for disabled people seriously.

THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

1. We welcome the Minister's statement that the Government accepts the clear benefits of ratification of the Convention. The findings of our recent inquiry on the rights of adults with learning disabilities showed that although UK law and policy on the treatment of adults with learning disabilities takes a human rights based approach, the day to day experiences of people with learning disabilities are not so positive. Ratification will send a strong signal to all people with disabilities in the UK, and abroad, that the Government takes equality and the protection of their human rights seriously. We look forward to seeing more detail about how, in practice, the Government proposes to ensure that the UNCRPD will play an important part in policy formation. (Paragraph 22)

The Government has always been very clear about the benefits of this important Convention, which is why we supported the negotiations leading up to its adoption, why we signed it as soon as it was possible to do so on 30 March 2007, and why we have today started the formal Parliamentary processes for ratification as soon as is practicable. The Government remains committed to ensuring equality for disabled people - as set out in the report: 'Improving the Life Chances of Disabled People'. The Government agrees with the Committee that ratification will send a strong and positive message to all disabled people in the UK and abroad – and to those who are not disabled – that the Government takes equality and the protection of human rights for disabled people seriously.

¹ Not printed

The Government's view is that the Convention is a powerful statement of disabled peoples' human rights and one that will underpin all its work towards disability equality. The Office for Disability Issues (ODI) which has been coordinating work on ratification of the Convention, will work with Departments to ensure that the Convention will continue to inform the development of legislation and policy in the future.

2. We are concerned that there has been limited active engagement by the Government with disabled people and their groups. While we understand that discussions have taken place between the Minister and his predecessor, officials and disabled people and their organisations, it appears that these discussions were largely at the instigation of the groups themselves and based on relatively little open information. As the ODI acknowledges in its supplementary evidence, these discussions are not a substitute for consultation. We are disappointed that, although drafts of some proposals for reservations were available in June and July, these were not published in response to our August request for further information and that the Minister has since been reluctant to place drafts in the public domain. There would be clear benefits in consulting people with disabilities and their organisations on whether or not reservations to the UNCRPD are necessary. In our view, these would include increased confidence on the part of disabled people in the Government's approach. In addition, open discussions with the people most affected by the potential reservations and interpretative declarations may help persuade Government that they are unnecessary. If, after consultation, Government consider that reservations are appropriate, it will be in a better position to address individual objections and concerns during parliamentary scrutiny. (Paragraph 30)

The Government notes the Committee's concerns. As the Committee is aware, the then Minister for Disabled People's statement of the 6 May 2008 provided a detailed account of progress towards ratification at that point in time, clearly stating that the exercise to compare UK legislation, policies, practices and procedures had indicated a need for reservations or interpretative declarations in three areas; and identifying other areas where compatibility issues continued to be explored. That information was circulated to a number of organisations of and for disabled people, the Equality and Human Rights Commission and Equality 2025, providing them with information which they could follow up if they chose. Information has also been on the ODI's website. There has, therefore, been an avenue for dialogue as the work towards ratification has proceeded.

3. We consider that progress towards ratification of the Convention by the UK has so far lacked transparency and has unfortunately alienated disabled people and their organisations. This is unacceptable in the light of the clear Convention commitment which the Government intends to make to the involvement of disabled people in the development of policies and laws which affect them. This approach undermines the previous role that the UK Government has played in championing equality for disabled people and their leading role in negotiating the terms of the UNCRPD. (Paragraph 34)

The Government notes the Committee's views, and recognises that there has been some frustration that there has not been more consultation with disabled people and their groups. However it does not agree that there has been a lack of transparency. Inevitably, the process of considering compatibility with the Convention has been an evolving one, and we have wanted to be able to engage on issues where there has been a likelihood of a

reservation or interpretative declaration being required, rather than on those which have been possibilities.

As indicated above, the Government made clear in May 2008 that at that time it was considering reservations and/or interpretative declarations in three areas (service in the armed forces, education and immigration), and was continuing to explore whether there were any compatibility issues which may result in the need for an interpretative declaration or reservation in respect of: measures relating to the exercise of legal capacity; aspects of mental health legislation; choice of place of residence; and cultural services (interpretive measures). The then Minister for Disabled People provided a further update in response to the Committee's letter to her of 28 August 2008 and Jonathan Shaw, Minister for Disabled People and Minister for the South East, set out the further progress that had been made and the position on the reservations/interpretative declarations that remain outstanding, in his evidence to the Committee on 18 November 2008.

The Government recognises that it is essential that disabled people and their organisations are involved in future implementation of the Convention, for example, through participation in the monitoring and reporting processes that will be developed.

4. Although the Office for Disability Issues (ODI) has adopted a coordinating role in Government on ratification of the UNCRPD, it is unclear exactly what this role has been. The evidence which we heard from the Minister for Disabled People suggests that each Department has been asked to forward its concerns and a "wish list" of reservations to the ODI. Collective responsibility means that the Minister must defend the need for reservations publicly, but it is unclear whether anyone within Government has ever scrutinised these departmental requests to ascertain if they are strictly necessary, or seriously challenged their compatibility with the Convention. In the light of the lack of transparency that has accompanied progress towards ratification, we consider that this approach is unsatisfactory. (Paragraph 39)

The Government notes the Committee's views but does not agree with its conclusions, and rejects the suggestion that there has been a "wish-list" approach to reservations. The ODI has been responsible for leading the work on ratification of the Convention across Government, and as part of this role co-ordinated the exercise to compare UK legislation, policies, practices and procedures against the provisions of the Convention. ODI has worked very closely with the Devolved Administrations and with Departments, particularly the Foreign and Commonwealth Office, on emerging issues. This liaison has involved scrutiny, discussion and challenge at all stages resulting in a significantly shorter list of reservations and declarations than was first identified.

5. We are extremely disappointed that the Minister has failed to meet the Government's original goal of ratification by the end of 2008. We are particularly concerned that this failure means that the United Kingdom has not been involved in the establishment of the monitoring mechanisms for the Convention from the outset. We welcome the Minister's acknowledgement that the United Kingdom need not wait for ratification by the European Community before proceeding to ratify. (Paragraph 44)

The Government regrets that it was not possible to meet the original aim of ratification by the end of 2008. That aim was always a very demanding one, given that the time from

signature to ratification of similar Conventions by the UK varies considerably, and is on average four years. Although the aim was not met, it was right that we set a challenging timetable so that we could advance as far as we were able, and demonstrate the importance we place on the Convention.

The Government notes the Committee's comment about involvement in the monitoring mechanisms for the Convention, by which it is understood the Committee means the UN Committee for the Rights of Persons with Disabilities which was established at the Conference of States Parties held on 31 October and 3 November. Although the UK has not been involved in the establishment of that Committee, when the number of States that has ratified has increased, there will be a further opportunity for the UK to be involved in elections to that Committee.

6. We recommend that the Minister publish the current text of each of the reservations and interpretative declarations being considered by the Government without delay to allow full consultation to take place with disabled people and their organisations. The publication of these drafts and the reasons for the Government's concerns before the proposals for ratification are laid before Parliament should not unnecessarily delay progress towards ratification. Even allowing for a 4-6 week period for consultation, the Minister's target of Spring 2009 should be achievable. The Government has discovered, since May 2008, that a number of interpretative declarations or reservations are not needed. A further period of open scrutiny may persuade the Government that its position on the remaining proposals for reservations, developed in isolation, has been unduly cautious. (Paragraph 48)

The Government notes the Committee's comments and recommendation. However, it does not agree with the Committee's conclusion that the Government's ambition to achieve ratification in Spring 2009 would still be achievable if it had allowed a 4-6 week period for consultation. The timetable necessary to achieve ratification is very tight. In addition to the time necessary for Parliamentary scrutiny of (and any debates on) the Government's proposals for ratification, it will be necessary to specify the Convention as a Community Treaty under section 1(3) of the European Communities Act 1972. Specification involves the making of an Order in Council which is subject to the affirmative resolution procedure which requires debates in both Houses.

Accordingly the Government does not believe that it would have been helpful to pause to engage in a separate exercise to invite feedback before the Parliamentary processes began. Our focus must be on achieving ratification as soon as we are able, and if necessary on the basis of the small number of reservations and the interpretative declaration that now remain under consideration, so that the important messages that the Convention gives about equality of human rights for disabled people across all aspects of life are clearly made, and so that we can look towards implementation.

However, this does not mean that the Government has not been open to feedback on the proposed reservations or interpretative declaration more generally. Indeed the Government will continue to welcome comments on the basis on which we propose to ratify. As previously stated, the Parliamentary processes for ratification provide an opportunity for scrutiny by both Houses, including debate, on the terms of our proposals. The Government will ensure that the information provided to Parliament is disseminated

more widely by the Office for Disability Issues, to allow disabled people and their organisations to consider the terms and implications of what we propose. They will be able to make their views known to Departments directly, and to MPs and Peers. The reservations and interpretative declaration made will also, of course, be considered again during preparation of the UK's report to the UN Committee about compliance with the Convention.

7. We share the view of the EHRC that ratification of the Convention ought to take place as soon as possible. Significant delay by the United Kingdom will undermine its standing in the international community, may reduce its ability to participate in the further development of the monitoring mechanisms for the treaty and may undo some of the positive and encouraging developments in the Government's perception as a leader in the campaign for policies and laws which enable disabled people to live independent and equal lives. However, we consider that the number of reservations currently being considered by the Government may send a negative impression to the other State Parties to the Convention and to disabled people in the United Kingdom. (Paragraph 49)

The Government welcomes the Committee's statement that ratification of the Convention should take place as soon as possible. That has always been our objective. The Government recognises the view that has been expressed by some that there should be no ratification with reservations. However, that would simply delay the important opportunity that we have to send out the very strong and clear message that the Convention contains – and which the Government fully supports – that disabled people should be able to enjoy the same human rights as anyone else. The Government therefore takes the view - which has also been expressed by the Disability Committee of the Equality and Human Rights Commission - that early ratification should take precedence over continuing to debate the small number of reservations and interpretative declarations which remain necessary.

8. Whilst we welcome the new goal set by the Minister of ratification by Spring 2009, we would be extremely disappointed if ratification were to proceed without any further opportunity for consultation and scrutiny by disabled people and their organisations. (Paragraph 50)

The Government's response at 6 above covers this point.

9. The proposal that the UK make at least the same number of reservations to the Convention as all 43 existing State Parties combined is extremely worrying. It sends a stark message to other signatories to the UNCRPD that the UK is concerned about its content. Without clear justification having been provided, this proposal understandably shakes the confidence of disabled people in the UK in the Government's approach to the Convention. We consider that the Minister's explanation that it would not be appropriate for the UK Government to consider the position of other State Parties to the Convention rather misses the point of our comparison. (Paragraph 52).

The Government notes the Committee's comments. However, the Government's view is that comparisons cannot be made on the basis of the number of reservations and/or interpretative declarations made by other countries. Countries have different cultures and

different ways of doing things. Some countries' approach to ratification is aspirational, and that is a perfectly valid approach for them. The UK's approach, however, is not to ratify any international treaty until it is in a position to ensure that it can implement the provisions and therefore comply with the obligations that it has accepted.

The UK takes the ratification of international treaties very seriously and whilst the UK would wish to keep them to the absolute minimum, to enable us to ratify treaties it is sometimes necessary to enter reservations and/or interpretative declarations. It is not uncommon for States to enter reservations and interpretative declarations to international human rights treaties and as the Committee is aware a number of States have already done so in respect of this Convention. Entering reservations and/or interpretative declarations does not of itself imply any fundamental lack of respect for human rights. In many cases States would not be able to ratify individual treaties without entering one or more reservations.

10. In addition to the publication of its draft proposals for reservations and interpretative declarations, we also recommend that the Government should publish the outcome of its own review of the compatibility of domestic law and practice with the requirements of the Convention. This would assist with more detailed scrutiny of the Government's approach to ratification of the Convention. The Government should be able to explain clearly why it considers that UK law and administrative practice currently complies with the requirements of the Convention. (Paragraph 57).

The Government notes the Committee's recommendation. The Government has already made clear that the outcome of the review of the compatibility of UK legislation, policies, practices and procedures against the provisions of the Convention is that it has decided that there is a need for reservations and an interpretative declaration in respect of education, immigration, service in the armed forces and the safeguard of regular review so far as it relates to social security benefit appointees. The Government's view is that it would be neither practical nor desirable for details of all the matters that have been considered and resolved in over two years work to be published.

11. We welcome the Government's decision to conduct an open consultation on its response to the House of Lords decision in Malcolm. We do not share the confidence of the Government that the judgment does not create difficulties for the compatibility of existing domestic anti-discrimination law with the requirements of the UNCRPD. At the very least, this change in the law means that the UK is less likely to meet its obligation under Article 5 of the Convention to prohibit all discrimination on the basis of disability, to guarantee to persons with disabilities equal and effective protection against discrimination on all grounds and to promote equality, eliminate discrimination and take appropriate steps to ensure that reasonable accommodation is provided for people with disabilities. We welcome the Government's decision to bring forward a new settlement for the protection of people with disabilities from discrimination in the forthcoming Equality Bill, and to remove the implications of the Malcolm judgment. We will examine these proposals during our scrutiny of the Bill. (Paragraph 63)

In *Malcolm*, the House of Lords overturned existing case law on how a comparison is to be made in order to ascertain whether disability-related discrimination has occurred. The effect of the judgment was to make it more difficult for a disabled person to show that he or she had been subjected to less favourable treatment for a reason related to his or her disability. Whilst the decision was unexpected and in the Government's view has disturbed the balance between the rights of disabled people and the interests of duty holders, the Government does not believe that the judgment means the UK cannot meet the Convention's obligations.

The Convention requires States Parties to prohibit all discrimination on the basis of disability, to guarantee disabled people protection from discrimination on all grounds, and to ensure that reasonable accommodation is provided. The decision in *Malcolm* does not affect the duty to make reasonable adjustments and does not prevent claims for direct discrimination or harassment where applicable. The Disability Discrimination Act 1995, as amended, continues to provide robust remedies for disabled people in line with the Convention. The Government is proposing to legislate in the Equality Bill to address the implications of the *Malcolm* judgment and sees no advantage to the UK, or to disabled people, in postponing ratification pending the Equality Bill nor any necessity for the UK to enter a reservation on this matter.

12. It is disappointing that we have now asked three Ministers, including the Home Secretary for information about the Home Office policy in respect of the UNCRPD and we still have no clear answers about the Government's proposals for immigration and citizenship reservations, in relation to the right to free movement without discrimination on the basis of disability or other parts of the Convention. It is particularly worrying that the Home Office approach appears to be based on a desire to insert a 'catch all' provision to cover as yet undetermined future policy proposals. This approach would be an entirely inappropriate way for the UK to approach a new set of positive international obligations. (Paragraph 70)

The overriding purpose of the Home Office is to protect the public. This commitment includes helping to ensure that public health is not put at risk. The Government considers that a reservation is necessary to protect public health and avoid creating an unnecessary new avenue to challenge immigration decisions. It is not intended to be used to enable discrimination or to disadvantage disabled people more generally. The UK has robust laws in relation to disability discrimination which the Home Office is already bound by and this position will not be affected by the proposed reservation.

The precise wording of the proposed reservation has been placed in the public domain in the Explanatory Memorandum in respect of ratification which has today been laid before Parliament. The intention is to enable the United Kingdom to ensure that the Convention does not create new or additional rights for non-UK national disabled people relating to entry into, stay in and departure from the United Kingdom. In particular, that the Convention would not apply to existing or future health requirements for non-nationals seeking to enter or remain in the UK where these requirements were based on legitimate, objective and reasonable criteria.

13. No detailed proposals for reservations or interpretative declarations to the right to education have emerged during our inquiry. We welcome the decision of the DCSF to

provide us with a memorandum about its proposals but, despite this additional information, we do not have adequate information about the Government's position or its proposals to determine whether any reservation is necessary or compatible with the spirit of the Convention. We recommend that when the draft text of any reservation or interpretative declaration is published, that it is accompanied by a full explanation of why the Government considers that it is necessary and compatible with the object and purpose of the Convention. This should include a clear explanation of the Government's view that current law and policy should not be amended to allow the UK to ratify the Convention without reservation. (Paragraph 80).

The Explanatory Memorandum that has been laid before Parliament contains an explanation of the reasons for the reservations/declarations that the Government proposes to make on ratification.

14. We share the doubts of the EHRC and other witnesses over whether the continued exemption of the armed forces from the application of the DDA is justified. We agree with the Minister that the forthcoming Equality Bill will provide a timely opportunity for the Ministry of Defence to consider whether its position is now outdated. It would be unfortunate if reservations were entered to the Convention which were quickly proved unnecessary as a result of a positive reform in domestic law. We recommend that the Government now consider, against the background of its commitments in the UNCRPD, whether an amendment to the DDA might be included in the forthcoming Equality Bill to remove the exemptions currently enjoyed by the armed forces. If the Ministry of Defence consider that the exemptions continue to be justified, we would expect the Government to provide supporting evidence for its position. (Paragraph 88).

The Government notes the Committee's views. An explanation of the requirement for a reservation to be entered on behalf of the Armed Forces is set out in the Explanatory Memorandum referred to above.

15. We have inadequate information to reach a firm conclusion on the necessity for each of the reservations being considered by the Government. However, in the light of the evidence we have received and the detail we have seen, we share the doubts of many disabled people's organisations that any, or all, of the reservations or interpretative declarations currently being considered by the Government are both necessary and compatible with the object and purpose of the UNCRPD. (Paragraph 90)

The Government notes the Committee's view. The Government considers that the reservations and declaration that it is proposing to make on ratification are necessary, for the reasons that are set out in the Explanatory Memorandum in respect of ratification referred to above, and that they are consistent with the requirements of Article 46 of the Convention.

16. If the Government now considers that reservations are necessary, it must provide clear justification for its position and its view that the reservations or interpretative declarations are permitted. We are concerned that the Government's proposals imply an outdated approach to equality for disabled people, proceeding on the premise that reservations are needed in order to maintain the Government's current policy, rather than examining whether the current policy is appropriate or compatible with the goals

of the Convention. This defensive approach is in stark contrast to the Government's goal to achieve equality for all disabled people by 2025. This approach, in our view, could have been avoided through the adoption of greater transparency and by providing the opportunity for closer scrutiny of the Government's concerns. (Paragraph 91)

The Government notes the Committee's views but does not agree with its conclusions. As set out above, the UK's approach is not to ratify any international treaty until it is in a position to ensure that it can implement the provisions and therefore comply with its obligations. It has therefore been necessary for Government Departments and the Devolved Administrations to compare their legislation, policies, practices and procedures with the provisions of the Convention. Where compatibility issues either cannot be resolved or in the case of rights that come into effect immediately on ratification, cannot be resolved without delaying ratification, the Government considers that it is necessary for it to enter a reservation. The Government has set out the reasons for the reservations and declarations that it is proposing to make on ratification in its Explanatory Memorandum in respect of ratification.

17. If the Government decides to proceed with its proposals for reservations to the Convention, other States may be able to challenge the reservations, as incompatible with the object and purpose of the Convention. Some witnesses told us that reservations being proposed were liable to challenge, particularly in respect of the concerns of the DCSF and the proposals for reservations in respect of the right to education. We consider that it would be premature for us to express a firm view on the compatibility of any proposals with the object and purpose of the Convention. We recommend that together with publishing the draft text of any proposed reservations, the Government provide a clear explanation of its view that they are compatible with the object and purpose of the UNCRPD. (Paragraph 92)

The Government notes the Committee's comments and recommendation. The Committee has made a similar recommendation elsewhere in its report and the issue is addressed in the Government's responses at paragraphs 12, 13, 14, 15 and 16 above.

18. We consider that the benefits of ratification of the Optional Protocol to the UNCRPD are reasonably clear. The UK has led the field in pushing for the acceptance of the Convention and advocating the rights of people with disabilities to equal treatment. We have received evidence that the right to individual petition is considered an essential part of participation in the Convention by disabled people and their organisations. In addition, we consider that the participation of the UK, from an early stage, in the interpretation of the Convention and the development of its monitoring mechanisms would be valuable not only for disabled people in the UK, but for the ongoing development of the Convention at an international level. In any event, should the European Commission proceed to ratify the Optional Protocol to the Convention, we could end up with the absurd situation that disabled people in the UK could take their cases to the UN, but only in relation to areas of law or policy where the EC had exercised competence, not purely domestic legislation or administrative action. In the field of equality and non-discrimination this is likely to leave a limited area where the UN monitoring mechanism would not apply. We recommend that the Government

undertakes to sign and ratify the Optional Protocol at the same time as it ratifies the Convention. (Paragraph 98).

As the Committee will be aware, Jonathan Shaw announced on 3rd February that the UK would sign the Optional Protocol, and this was done at the United Nations in New York on 26th February. The Government is now working towards ratification.

19. As we have outlined above, we are concerned that the role of the ODI in relation to the process of ratification has been unclear. We consider that the focal point for the implementation of any international Convention should assume the responsibility for ensuring that the Government is taking all steps necessary to comply with the UK's international obligations. This requires a strong presence with clear influence across Government. Monitoring compatibility cannot be left entirely to the domestic independent mechanism, in this case, the UK's equality and human rights commissions. Government must assume a positive role in its approach to compliance. Article 33 of the UNCRPD, in our view, will not be satisfied by anything less. (Paragraph 101)

As indicated in its response to the Committee's comment at paragraph 4, the Government does not agree that the role of the ODI in relation to ratification has been unclear. In liaison with the FCO, it has been the co-ordinator and overall policy lead on the Convention and has fulfilled a challenge function. As the focal point within Government for implementation of the Convention and being a cross Government unit with responsibility for ensuring equality for disabled people by 2025, the ODI will continue to be a strong presence with clear influence across Government.

With regard to the Committee's comments in respect of Article 33 of the Convention, this Article requires parties to the Convention to "maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation" of the Convention. Whilst the UK's equality and human rights Commissions will comprise the independent element of the framework, and in doing so will fulfil a crucially important role, it has never been the Government's position that monitoring implementation of the Convention can be "left entirely to the domestic independent mechanism". Clearly there is a distinct obligation on Government (and therefore the ODI, other Departments and the Devolved Administrations) to promote, protect and monitor implementation of the Convention in so far as it applies to matters that fall within their remit, and the ODI will continue to have a key role to play. The Committee will also be aware that the Convention also provides for civil society, in particular disabled people and their representative organisations, to be involved and participate fully in the monitoring process.

The Government would also refer the Committee to the requirements of Article 31 (regarding statistics and data collection) and of Article 35, which also clearly place obligations on Government that relate to monitoring. The Government will meet these obligations.

20. In the past, our predecessor Committee recommended that the Ministry of Justice should play this role across Government in relation to all of our international obligations. In relation to the UK obligation to implement judgments of the European

Court of Human Rights, we have recommended that the Secretary of State for Justice should have Ministerial responsibility for coordination across Government in order to add Cabinet-level credibility to this work. We have not yet received any substantive response to these recommendations. If the ODI is to act as the focal point for the implementation of the UNCPRD, we call on the Government to ensure that the Office has the full cooperation of all departments in its endeavours to ensure that the UK complies with its obligations and that equality, respect and dignity for people with disabilities are mainstream concerns throughout all areas of Government. This must include provision for effective coordination with the devolved assemblies at a high level and, if necessary, the designation of separate focal points. (Paragraph 102)

As the Government set out in its Explanatory Memorandum in respect of ratification of the Convention, the ODI will be the focal point for implementation within Government. Given its remit to ensure equality for disabled people by 2025, and the cross-government role that it already has, the ODI is well suited to undertaking this role.

As a cross-government unit the ODI depends on the cooperation of all departments in respect of all its work. In its work towards ratification ODI has developed effective mechanisms for coordination including de facto focal points in Government Departments and the Devolved Administrations. It will continue to need effective coordination mechanisms with Departments and Devolved Administrations post ratification and will review these arrangements to ensure that they meet these ongoing needs.

List of Reports from the Committee during the current Parliament

The following reports have been produced

Session 2008-09

First Report	The UN Convention on the Rights of Persons with Disabilities	HL Paper 9/HC 93
Second Report	The Work of the Committee in 2007-08	HL Paper 10/HC 92
Third Report	A Bill of Rights for the UK? Government Response to the Committee's Twenty-ninth Report of Session 2007-08	HL Paper 15/ HC 145
Fourth Report	Legislative Scrutiny: Political Parties and Elections Bill	HL Paper 23/ HC 204
Fifth Report	Counter-Terrorism Policy and Human Rights: Annual Renewal of Control Orders Legislation 2009	HL Paper 37/HC 282
Sixth Report	UN Convention on the Rights of Persons with Disabilities: Government Response to the Committee's First Report of Session 2008-09	HL Paper 46/HC 315

Session 2007-08

First Report	Government Response to the Committee's Eighteenth Report of Session 2006-07: The Human Rights of Older People in Healthcare	HL Paper 5/HC 72
Second Report	Counter-Terrorism Policy and Human Rights: 42 days	HL Paper 23/HC 156
Third Report	Legislative Scrutiny: 1) Child Maintenance and Other Payments Bill; 2) Other Bills	HL Paper 28/ HC 198
Fourth Report	Government Response to the Committee's Twenty-First Report of Session 2006-07: Human Trafficking: Update	HL Paper 31/ HC 220
Fifth Report	Legislative Scrutiny: Criminal Justice and Immigration Bill	HL Paper 37/HC 269
Sixth Report	The Work of the Committee in 2007 and the State of Human Rights in the UK	HL Paper 38/HC 270
Seventh Report	A Life Like Any Other? Human Rights of Adults with Learning Disabilities: Volume I Report and Formal Minutes	HL Paper 40-I/HC 73-I
Seventh Report	A Life Like Any Other? Human Rights of Adults with Learning Disabilities: Volume II Oral and Written Evidence	HL Paper 40-II/HC 73-II
Eighth Report	Legislative Scrutiny: Health and Social Care Bill	HL Paper 46/HC 303
Ninth Report	Counter-Terrorism Policy and Human Rights (Eighth Report): Counter-Terrorism Bill	HL Paper 50/HC 199
Tenth Report	Counter-Terrorism Policy and Human Rights (Ninth report): Annual Renewal of Control Orders	HL Paper 57/HC 356

Legislation 2008		
Eleventh Report	The Use of Restraint in Secure Training Centres	HL Paper 65/HC 378
Twelfth Report	Legislative Scrutiny: 1) Health and Social Care Bill 2) Child Maintenance and Other Payments Bill: Government Response	HL Paper 66/HC 379
Thirteenth Report	Government Response to the Committee's First Report of Session 2006-07: The Council of Europe Convention on the Prevention of Terrorism	HL Paper 67/HC 380
Fourteenth Report	Data Protection and Human Rights	HL Paper 72/HC 132
Fifteenth Report	Legislative Scrutiny	HL Paper 81/HC 440
Sixteenth Report	Scrutiny of Mental Health Legislation: Follow Up	HL Paper 86/HC 455
Seventeenth Report	Legislative Scrutiny: 1) Employment Bill; 2) Housing and Regeneration Bill; 3) Other Bills	HL Paper 95/HC 501
Eighteenth Report	Government Response to the Committee's Sixth Report of Session 2007-08: The Work of the Committee in 2007 and the State of Human Rights in the UK	HL Paper 103/HC 526
Nineteenth Report	Legislative Scrutiny: Education and Skills Bill	HL Paper 107/HC 553
Twentieth Report	Counter-Terrorism Policy and Human Rights (Tenth Report): Counter-Terrorism Bill	HL Paper 108/HC 554
Twenty-First Report	Counter-Terrorism Policy and Human Rights (Eleventh Report): 42 days and Public Emergencies	HL Paper 116/HC 635
Twenty-Second Report	Government Response to the Committee's Fourteenth Report of Session 2007-08: Data Protection and Human Rights	HL Paper 125/HC 754
Twenty-Third Report	Legislative Scrutiny: Government Replies	HL Paper 126/HC 755
Twenty-Fourth Report	Counter-Terrorism Policy and Human Rights: Government Responses to the Committee's Twentieth and Twenty-first Reports of Session 2007-08 and other correspondence	HL Paper 127/HC 756
Twenty-fifth Report	Counter-Terrorism Policy and Human Rights (Twelfth Report): Annual Renewal of 28 Days 2008	HL Paper 132/HC 825
Twenty-sixth Report	Legislative Scrutiny: Criminal Evidence (Witness Anonymity) Bill	HL Paper 153/HC 950
Twenty-seventh Report	The Use of Restraint in Secure Training Centres: Government Response to the Committee's Eleventh Report	HL Paper 154/HC 979
Twenty-eighth Report	UN Convention against Torture: Discrepancies in Evidence given to the Committee About the Use of Prohibited Interrogation Techniques in Iraq	HL Paper 157/HC 527
Twenty-ninth Report	A Bill of Rights for the UK?: Volume I Report and Formal Minutes	HL Paper 165-I/HC 150-I
Twenty-ninth Report	A Bill of Rights for the UK?: Volume II Oral and Written Evidence	HL Paper 165-II/HC 150-II
Thirtieth Report	Counter-Terrorism Policy and Human Rights (Thirteenth Report): Counter-Terrorism Bill	HL Paper 172/HC 1077
Thirty-first Report	Monitoring the Government's Response to Human Rights Judgments: Annual Report 2008	HL Paper 173/HC 1078

Thirty-second Report Scrutiny of Mental Health Legislation: Government Response to the Committee's Sixteenth Report of Session 2007-08 HL Paper/ HC 1079

Session 2006–07

First Report	The Council of Europe Convention on the Prevention of Terrorism	HL Paper 26/HC 247
Second Report	Legislative Scrutiny: First Progress Report	HL Paper 34/HC 263
Third Report	Legislative Scrutiny: Second Progress Report	HL Paper 39/HC 287
Fourth Report	Legislative Scrutiny: Mental Health Bill	HL Paper 40/HC 288
Fifth Report	Legislative Scrutiny: Third Progress Report	HL Paper 46/HC 303
Sixth Report	Legislative Scrutiny: Sexual Orientation Regulations	HL Paper 58/HC 350
Seventh Report	Deaths in Custody: Further Developments	HL Paper 59/HC 364
Eighth Report	Counter-Terrorism Policy and Human Rights: Draft Prevention of Terrorism Act 2005	HL Paper 60/HC 365
Ninth Report	The Meaning of Public Authority Under the Human Rights Act	HL Paper 77/HC 410
Tenth Report	The Treatment of Asylum Seekers: Volume I Report and Formal Minutes	HL Paper 81-I/HC 60-I
Tenth Report	The Treatment of Asylum Seekers: Volume II Oral and Written Evidence	HL Paper 81-II/HC 60-II
Eleventh Report	Legislative Scrutiny: Fourth Progress Report	HL Paper 83/HC 424
Twelfth Report	Legislative Scrutiny: Fifth Progress Report	HL Paper 91/HC 490
Thirteenth Report	Legislative Scrutiny: Sixth Progress Report	HL Paper 105/HC 538
Fourteenth Report	Government Response to the Committee's Eighth Report of this Session: Counter-Terrorism Policy and Human Rights: Draft Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9 order 2007)	HL Paper 106/HC 539
Fifteenth Report	Legislative Scrutiny: Seventh Progress Report	HL Paper 112/HC 555
Sixteenth Report	Monitoring the Government's Response to Court Judgments Finding Breaches of Human Rights	HL Paper 128/HC 728
Seventeenth Report	Government Response to the Committee's Tenth Report of this Session: The Treatment of Asylum Seekers	HL Paper 134/HC 790
Eighteenth Report	The Human Rights of Older People in Healthcare: Volume I- Report and Formal Minutes	HL Paper 156-I/HC 378-I
Eighteenth Report	The Human Rights of Older People in Healthcare: Volume II- Oral and Written Evidence	HL Paper 156-II/HC 378-II
Nineteenth Report	Counter-Terrorism Policy and Human Rights: 28 days, intercept and post-charge questioning	HL Paper 157/HC 394
Twentieth Report	Highly Skilled Migrants: Changes to the Immigration Rules	HL Paper 173/HC 993
Twenty-first Report	Human Trafficking: Update	HL Paper 179/HC 1056