

Institution: The University of Leeds		
Unit of Assessment: 18 Law		
Title of case study: Accessibility: making the case for EU law and shaping guidance to governments and civil society		
Period when the underpinning research was undertaken: 2006-2013		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Anna Lawson	Professor of Law	1990-
Period when the claimed impact occurred: 2013-2019		
Is this case study continued from a case study submitted in 2014? No		
<p>1. Summary of the impact (indicative maximum 100 words)</p> <p>Lawson's research contributed to the development of EU law by helping the European Commission establish the need for the European Accessibility Act and its strong monitoring and enforcement measures. This Act, adopted in 2019, is described by the European Disability Forum as a 'landmark agreement'. It introduces a new system for regulating the accessibility of many products and services, and must be implemented by all EU and European Economic Area (EEA) countries by 28 June 2022. Lawson's research also shaped official guidance on accessibility issued by international, European and national bodies as follows:</p> <ol style="list-style-type: none"> The United Nations Committee on the Rights of Persons with Disabilities (Disability Committee) in 2014 to governments in 182 countries and civil society globally. The Council of Europe (CoE) in 2017 to CoE institutions, and governments and civil society in the 47 CoE member states. The House of Commons Women and Equalities Committee (WEC) in 2017 to the UK government and national civil society. 		
<p>2. Underpinning research (indicative maximum 500 words)</p> <p>Inaccessible environments, technologies, transport, information and communication have always restricted opportunities for disabled people. In 2006 the UN Convention on the Rights of Persons with Disabilities (Disability Treaty) recognised accessibility as a human right. This made developing effective accessibility law and policy, including by appropriately and creatively harnessing discrimination prohibitions, a priority for policy-makers and civil society.</p> <p>Lawson's work on accessibility spans two decades. Much of it was commissioned by international organisations needing evidence to inform policy development or campaigning. Research [2-4] resulted from Lawson's work for two European Commission research networks, which inform EU policy on disability and equality:</p> <ul style="list-style-type: none"> The Academic Network of European Disability Experts (ANED), which ran from 2009-2019, included academic experts from 35 countries and was led by the Leeds Centre for Disability Studies (CDS) – co-directed by Lawson since 2015. Mark Priestley (Professor of Disability Policy at Leeds in the School of Sociology and Social Policy and CDS colleague) was ANED's scientific director and, from 2012 to 2014, Lawson led its accessibility work. The European Commission asked ANED for a comparative study of national mechanisms for implementing and enforcing accessibility strategies and obligations, to inform its decision about whether to propose a European Accessibility Act. Lawson led this study [4], liaising closely with the Commission's Disability Unit and Priestley, and co-ordinating and analysing research reports from ANED's national experts. ANED also conducted a supplementary survey of accessibility standards in different EU countries, led by Priestley and supported by Lawson. The Network of Legal Experts on Gender Equality and Non-Discrimination (the Legal Network) commissioned Lawson to conduct research [2,3] into the nature and effectiveness of EU and member state law on disability equality and accessibility, in light of the need for 		

compliance with the Disability Treaty. For [2], Lawson analysed a set of national reports using a template designed by others in the Network. For [3], Lawson led the research from the outset, designing templates to structure and guide the national reports, and conducting the comparative analysis with Delia Ferri (Maynooth University).

Findings

The underpinning research compared the nature and effectiveness of accessibility measures and identified innovative good practice examples. A particular focus was the relationship between accessibility and prohibitions of discriminatory practices (including failure to make reasonable adjustments/accommodations).

Four key relevant and inter-connected findings were:

- Different EU countries had divergent accessibility standards and the Disability Treaty was likely to generate more standards and inconsistency. Without EU-level intervention (in the form of some kind of European Accessibility Act), there was a real and growing risk of inconsistency, which could hinder free movement of goods and services between European countries [2,4].
- Many European countries had already made strategic and legislative commitments to accessibility, but the nature and content of these commitments varied widely, and most were unenforceable and ineffective. Lawson recommended EU interventions (e.g. via a European Accessibility Act) to establish accessibility obligations which could be enforced systemically (e.g. by industry inspectors and regulators) as well as by affected individuals [2,4].
- Lawson identified innovative good practice on the use of non-discrimination law to enhance accessibility [1-6]. For example, she identified the 'anticipatory reasonable adjustment duty' in UK law as an innovative use of discrimination law which could enhance accessibility [1,5]. It obliges service providers to take reasonable steps to remove barriers as soon as they *anticipate* that part of their service could disadvantage disabled people. This goes beyond most reasonable adjustment/accommodation duties, which only arise when a disabled person actually complains. She also identified Norway's use of accessibility standards in assessing reasonable adjustment claims as another good practice example [2,4].
- On the basis of doctrinal human rights analysis of the Disability Treaty, Lawson concluded that (despite overlaps and synergies) there were important differences between accessibility rights and non-discrimination rights, such that it was important not to treat all accessibility failures as unlawful discrimination [2,6]. This ran counter to the views of many influential thinkers, as illustrated by the UN Disability Committee's first draft of General Comment No. 2 (discussed below) where all accessibility failures were treated as unlawful discrimination.

3. References to the research (indicative maximum of six references)

- [1] Lawson, A. 2008. *Disability and Equality Law in Britain: The Role of Reasonable Adjustment*. Hart Publishing. ISBN 9781847314710. Monograph supplied on request.
- [2] Lawson, A. 2010. 'Reasonable accommodation and accessibility obligations: towards a more unified European approach?'. *European Anti-Discrimination Law Review* 11, 11-22. https://www.migpolgroup.com/old/public/docs/188.European_Anti-discrimination_Law_Review_11_18.02.2011_EN.pdf.
- [3] Ferri, D. and Lawson, A. 2016. *Reasonable Accommodation for Disabled People in Employment: A Legal Analysis of the Situation in EU Member States, Iceland, Liechtenstein and Norway*. Publications Office of the European Union. <https://op.europa.eu/en/publication-detail/-/publication/ada7afd0-57ab-4495-8b03-f11757c561f6>.
- [4] Lawson, A. 2012/13. *Maximising the Impact and Effectiveness of Accessibility Measures for Goods and Services: Learning from National Experience*. Synthesis Report for the Academic Network of Experts on Disability. <https://www.disability-europe.net/downloads/122-aned-2012-task-4-accessibility-report-final>.
- [5] Lawson, A. 2010. 'Challenging disabling barriers to information and communication technology in the information society: a United Kingdom perspective', in L. Waddington and G. Quinn (eds) *Yearbook of European Disability Law: Volume 2*. Intersentia, pp. 131-48. ISBN 9789400001282. Reprinted in E. Emens and M. Stein (eds) 2013. *Disability and Equality Law*. Ashgate. ISBN 9781409448785. Supplied on request.

[6] Lawson, A. 2012. 'Disability equality, reasonable accommodation and the avoidance of ill-treatment in places of detention: what role for monitoring and inspection bodies?'. *International Journal of Human Rights* 16(6), 845-64.
<https://doi.org/10.1080/13642987.2012.706003>.

Associated grants secured in peer-reviewed competition:

Output [1] was supported by an Arts and Humanities Research Council Research Fellowship (GBP25,998; 2006-7, AH/E504809/1). Outputs [2] and [3] were supported by funding from the [European Network of Legal Experts on Gender Equality and Non-Discrimination](#). Output [4] was supported by the European Commission competitive tender 'Establishment and Maintenance of a European Network of Academic Experts in the Field of Disability', (EUR1.95m; 2012-2014, JUST/2011/PROG/PR/01/D3). Awarded to the Academic Network of European Disability Experts (ANED): PI Priestley, Co-I **Lawson**.

4. Details of the impact (indicative maximum 750 words)

Lawson received the international [Bob Hepple Equality Award](#) in 2016 from the Equal Rights Trust and Industrial Law Society for her work on disability equality and accessibility. This recognised the research and impact described in this case study as one element of a career-long contribution in this area. Lawson's research discussed above has been used by the European Commission, the United Nations Disability Committee, the Council of Europe, and the House of Commons Women and Equalities Committee to shape law and guidance on accessibility to improve disabled people's life chances and opportunities.

(i) Impact on EU and member state law

The underpinning research contributed to demonstrating the need for legislative change at the European level. According to the Senior Expert on Disability and Inclusion at the European Commission, Lawson's ANED research provided '*important information that supported and justified elements of the development of the European Accessibility Act*' [A]. In particular, by identifying the extent of inconsistency and divergence in national accessibility standards and regulation, it helped the Commission '*to argue the need of EU wide legislation*' [A] – a point also evidenced by the fact that reference was made to [4] and its supplementary survey in the Commission's 2015 proposal for the European Accessibility Act [B] and (21 times) in its accompanying impact assessment [C]. Further, Lawson's finding in [4] that many national standards and approaches were unenforceable, '*contributed to the justification of certain provisions such as those related to enforcement and monitoring*' [A].

The route to this impact involved a close working relationship between Lawson, Priestley and the European Commission, throughout the planning and writing of [4] and its supplementary survey. This included Lawson presenting emerging findings of the work being carried out for [4] to Commission staff (as well as ANED national experts and representatives of disabled and older people's organisations) at the ANED 2012 annual conference, where possible implications and potential recommendations were discussed prior to Lawson completing [4] in 2013.

Commission staff who worked with Lawson and Priestley played a lead role in persuading the European Commission, and subsequently member states, of the need for a European Accessibility Act. These staff also helped shape the 2015 proposal [B], which passed into EU law in 2019 as Directive 2019/882. This requires governments in all EU and EEA countries to take legislative and other steps to regulate accessibility in the manufacture, distribution and delivery of a wide range of products and services (including telephones, computers, ticket machines, self-service terminals, e-books, banking, transport and audio-visual media), and to establish effective monitoring and enforcement mechanisms, in line with the general recommendations in [4].

(ii) Impact on official guidance to governments and civil society

a) Guidance from the UN Committee on the Rights of Persons with Disabilities ([Disability Committee](#)) – to civil society and national governments in the 182 countries which have ratified the Disability Treaty – was shaped by the underpinning research. In particular, Lawson's work informed the content of the guidance issued by the UN Disability Committee on how governments

should use disability discrimination law to make accessibility barriers unlawful. This guidance was issued in a [‘general comment’](#) on the right to accessibility – GC 2.

The route to impact of this research was the UN Disability Committee’s consultation on its draft of GC 2. Research [1-6], on using discrimination prohibitions to achieve accessibility, informed a submission by the Leeds CDS which recommended (in paragraphs A2 and B22) that the draft be changed to include clear guidance on the forms of accessibility barrier that should, as a minimum, be prohibited by national law as unlawful discrimination. The draft was subsequently revised and the final version of GC 2 now includes a new paragraph (31), setting out some guidance on this point in terms very similar to those suggested by CDS [D].

General comments issued by UN treaty monitoring bodies, such as the Disability Committee, provide authoritative guidance to UN bodies, national governments and civil society on how to interpret and implement particular treaty rights. They are drafted in closed sessions and subject to strict confidentiality rules against the disclosure of the details of the discussions and the influence of particular submissions. However, the Vice-Chair of the Disability Committee’s Working Group, which drafted GC 2, noted that *‘one may safely highlight the impact which submission by Centre for Disability Studies, University of Leeds made on the drafting of paragraph 31’* [E].

(b) Guidance from the Council of Europe (CoE) to national governments in its 47 member states, CoE institutions and civil society was shaped by the underpinning research. The CoE advocates for the human rights of over 830 million people. In 2016, because of Lawson’s accessibility research (including [1-6]), the Head of the CoE’s Rights of Persons with Disabilities Unit invited her to write a study on accessibility to supplement the new high-level CoE Disability Strategy 2017-2023. This Strategy *‘aims at guiding and supporting the work and activities of the member States to implement the [UN Disability Treaty] and Council of Europe standards in this area’* [F]. It identifies accessibility as one of its five rights-based priorities. The purpose of the proposed study was to *‘highlight and expand information, evidence, data and good practice’*, *‘provide concrete ideas for implementation of the Strategy’*, and identify *‘ways and means with which to implement’* the right to accessibility in the UN Disability Treaty [F]. The study itself thus constituted guidance to national governments (as well as civil society and CoE institutions) on the effective implementation of accessibility rights.

Lawson drew heavily on her research [1-6] to write the study and presented it at a ministerial conference to launch the CoE’s Disability Strategy in March 2017, where it was used to frame discussion of the Strategy’s accessibility priority [F]. The CoE published Lawson’s study (or guidance) in hard copy and online as a resource on its website. While including a disclaimer to the effect that the opinions are Lawson’s and not necessarily those of the CoE, the title (selected by the CoE and not Lawson) makes it clear that it is a *‘contribution to the CoE Strategy’* [F]. It is the only guidance the CoE has issued to underpin the accessibility strand of its Strategy (the Strategy itself being stated in very broad and general terms).

(c) Guidance from the House of Commons [Women and Equalities Parliamentary Committee](#) to the UK Government and civil society was shaped by the underpinning research. In 2016 Lawson was approached and appointed by the House of Commons Women and Equalities Committee (WEC) to the role of special adviser in connection with its inquiry into Disability and the Built Environment. According to the Committee specialist who supported this inquiry, this was *‘because of her expertise and research in accessibility and equality law and her knowledge of disability organisations and activists’* [G]. Lawson, together with another special adviser with a non-academic background and different expertise, worked closely with this Committee specialist to advise, brief and support Committee members (MPs) – including: on which issues to focus; which witnesses (including government ministers) to invite for questioning; and the analysis and writing of the report, including its recommendations to government and civil society. For these purposes, Lawson drew on research [1-6] to inform her work for the Committee.

Discussions and deliberations of the Committee are confidential. While this makes it impossible to detail Lawson’s impact on specific recommendations, the report (published in 2017) described the *‘support and advice’* provided by Lawson and the other special adviser as *‘invaluable’* [H]. Moreover, the Committee’s recommendations on accessibility have begun influencing government action. For example, because of their inaccessibility for many disabled people, the WEC report

recommended that the government should replace shared-space street schemes (permitted by Local Transport Note (LTN) 1/11 issued by the Department for Transport (DFT) in 2011) with guidance drawing on accessibility and inclusive design principles. It also recommended that no new shared-space schemes should be introduced until new guidance was published, and that the government should introduce regulations under the Equality Act to make it easier to bring discrimination cases to challenge inaccessible shared-space streets. These recommendations were endorsed by the DFT's Disabled People's Transport Advisory Committee (comprised of disability experts, many of whom are disabled people) in its 2018 'Position on Shared Space', which described them as '*impressive*' and '*well thought*'. Several recommendations were adopted by the 2018 Inclusive Transport Strategy (adopted by DFT), which urges local authorities not to introduce any new shared-space schemes and announces the DFT's withdrawal of LTN 1/11 [I].

5. Sources to corroborate the impact (indicative maximum of 10 references)

[A] European Commission Senior Expert, Disability and Inclusion, in relation to 4(i). Letter of corroboration rec. 6 October 2020.

[B] European Commission, in relation to 4(i). 'Proposal for a directive ... on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services', COM 2015 615 Final, section 2 (p. 7): [https://www.eumonitor.eu/9353000/1/j4nvke1fm2yd1u0_j9vvik7m1c3gyxp/vkcweel0bhuz/v=s7zf/=com\(2015\)615_en.pdf](https://www.eumonitor.eu/9353000/1/j4nvke1fm2yd1u0_j9vvik7m1c3gyxp/vkcweel0bhuz/v=s7zf/=com(2015)615_en.pdf)

[C] European Commission, in relation to 4(i). 'Commission staff working document - impact assessment accompanying the proposal for a Directive ... on the approximation of the laws, regulations and administrative provisions of the Member States as regards accessibility requirements for products and services', SWD/2015/0264 final - 2015/0278 (COD). References to [4] and accompanying survey are in Part 1, (pp. 8 (twice), 21, 22, 30-5, 39 and 80); Part 2, (pp. 3, 41, 50 (twice), 72, 76, 83, 95, 96 and 111): <http://ec.europa.eu/transparency/regdoc/?fuseaction=list&coteld=10102&year=2015&number=264&language=EN>.

[D] UN Disability Committee documents, in relation to 4(ii). 'General Comment 2 – Article 9: Accessibility' (vide para. 31): <https://www.ohchr.org/en/hrbodies/crpd/pages/gc.aspx> and University of Leeds Centre for Disability Studies submitted evidence: https://www.ohchr.org/Documents/HRBodies/CRPD/GC/CentreDisabilityStudiesUniversityLeeds_DGC_Art9.doc.

[E] Former member of the UN Committee on the Rights of Persons with Disabilities, Vice-Chair of its Working Group on General Comment No. 2, in relation to 4(ii). Letter of corroboration dated 14 March 2020.

[F] Council of Europe documents, in relation to 4(ii). Council of Europe's Head of the Rights of Persons with Disabilities Unit. Email invitation, dated 29 September 2016; Agenda for 'Human Rights: A Reality for All. Conference to Launch the Council of Europe Disability Strategy 2017-2023' held in Nicosia, Cyprus on 27-28 March 2017: <https://rm.coe.int/16806f3249>; 'Accessibility of Information, Technologies and Communication for Persons with Disabilities: Contribution to the Council of Europe Strategy on the Rights of Persons with Disabilities' (Council of Europe, 2017): <https://rm.coe.int/final-study-accessibility-of-information/168072b420>.

[G] Former Committee Specialist to the House of Commons Women and Equalities Committee, in relation to 4(ii). Letter of corroboration, dated 9 October 2020.

[H] House of Commons Women and Equalities Committee, in relation to 4(ii). 'Building for Equality: Disability and the Built Environment' (Stationery Office, 2017 p. 7): <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/631/631.pdf>.

[I] UK Government documents, in relation to 4(ii): Disabled People's Transport Advisory Committee, 'Position on "shared space"', 13 June 2018: <https://www.gov.uk/government/publications/dptacs-position-on-shared-space/dptac-position-on-shared-space>; Department for Transport, Inclusive Transport Strategy 2018 (p. 50): <https://www.gov.uk/government/publications/inclusive-transport-strategy>.