

Disability Rights Commission

Learning lessons: Developing Codes of Practice

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Executive summary

The Learning Narratives project contributes to the broad legacy strategy of the Disability Rights Commission (DRC). It considers what the DRC has learnt through its various activities since 2000 and focuses on specific activities or overarching themes where the DRC has had direct involvement.

Each narrative responds to questions such as ‘why did we, the DRC, try to do what we did?’, ‘what worked?’ and ‘what didn’t work and why?’ and draws on a range of data sources, not least of which is the experience and expertise of DRC staff, both past and present.

This narrative compares and contrasts the processes faced in developing and revising three DRC Codes of Practice. The uniqueness of the DRC’s Codes is highlighted – especially in the way in which they have illustrated and shaped the law. The narrative will also highlight the challenges involved in developing Codes of Practice and will draw out the key learning for the Commission for Equality and Human Rights (CEHR) and other relevant organisations.

Developing Codes of Practice: Key Lessons

- Detailed consideration should be given to the structure of the different groups needed to oversee the development and implementation of a Code of Practice. Clear terms of reference should be produced for each group.
- The membership of each group will need to fully reflect the skill set required to address the specific terms of reference.

- Consideration should be given to external representation on the different groups providing the necessary expertise and levels of scrutiny. This also provides a level of 'buy-in' and credibility to the process.
- The process of developing a Code requires considerable co-operation with the relevant government sponsoring department, with an awareness of where to make compromises and where not to make compromises.
- The examples used in the Codes will need to 'reflect reality'; they will need to be practical and connect with stakeholders.
- A brief for each Code should be established at the outset. This includes being clear about the target audience and reflecting the language and tone accordingly.
- A clear process for 'signing off' each stage of a Code's development will need to be agreed and followed.
- If the Code is highly technical then appropriate specialist support should be brought in from the outset.
- The development of Codes is a long and complex process. Consideration should be given to how best to maintain the different groups' focus and energy throughout the project.
- Each meeting will need to be appropriately minuted with full secretariat support required throughout the process. All action points should have named responsibility to ensure accountability.
- Each individual working on a Code should have a clear job description for their role in the project.

- The project team should ensure a realistic timetable is agreed at the start, but this should also be considered at the earliest stages ie when a bill is going through parliament which will require a new Code of Practice or a revision of an existing one.
- Adequate time should be built into the post-consultation process, for consideration of responses and revision of drafts.
- A professional editor can be valuable provided that they have a high level of expertise in the area and experience of the detail. An external person could be used for this role.
- As the Code is developed it is important that concepts are tested with a range of stakeholders to ensure accurate understanding.

Introduction

A number of Codes of Practice have been produced by the DRC over the past seven years explaining the legal rights and requirements under different sections of the Disability Discrimination Act (DDA, 1995). These Codes are practical guidance aimed particularly at disabled people, employers, service providers and education institutions. Whilst Codes are not definitive statements of the law, they do hold power in courts and employment tribunals. In particular, they must be taken into account if any part of the Code appears relevant to the proceedings.

This narrative compares and contrasts the processes faced in developing and revising three DRC Codes in order to highlight the challenges and draw out the key learning for the future, and for the CEHR in particular. The Codes which are to be considered are the (Revised) Employment Code, the (Revised) Code on Part 3 of the DDA (Goods and Services) and the Disability Equality Duty Code.

The DRC's Codes of Practice

It is important to state at the outset that the Codes of Practice produced by the DRC differ considerably from those produced by the other statutory commissions. In particular, they contain numerous examples to illustrate the law. They have also shaped how the law is understood and put into effect, and have been used and approved by courts and have helped to charter a piece of legislation which is extremely complex and which remains largely legally unchartered.

The DRC has produced a large number of Codes of Practice – far more than the other commissions – and has put considerable resources into this. Given the importance of the Codes, the attachment of such resources is more than warranted.

The usefulness of the DRC's Codes has been demonstrated most recently in the Opinion Formers Survey, which said:

Written information provided by the DRC tended to receive particularly positive feedback, with DRC Codes of Practice being rated the highest. Over half of all respondents rated DRC written material very highly, and a further third rated it quite highly.

Findings of the Opinion Formers Research

The statutory Codes of Practice have been extremely successful – the Part Two [employment] and Part Three [Transport, Goods and Services] Codes are considered to be models of their kind. They're written extremely clearly, and they illustrate the points of law that have been made with examples.

Legal professional

Furthermore, in an article for the final edition of the DRC's legal bulletin, a leading legal commentator on discrimination law, and editor of Equal Opportunities Review and Industrial Relations Law Reports, said of the DRC Codes:

A crucial component of that preventative framework is that those who must comply with the law need to know what is expected of them. Codes of Practice have a key role to play in this respect, and the DRC's statutory Codes have been a model of their kind. The various disability Codes, such as those relating to employment and to access to goods, facilities, services and premises, have not hesitated to set out the Commission's own interpretation of what the law means in practice. This has been done with outstanding clarity and with conviction and, quite frankly, is in marked contrast to some of the Codes of Practice produced by the other statutory commissions. It is, however, very much in keeping with the DRC's perceived role as the guardian of its legislation... the CEHR would do well to follow the DRC's approach of setting out clearly what the law requires, with lots of user-friendly examples.

Michael Rubenstein

The role of a Code

The purpose of a Code is set out in the legislation. In the context of disability, the Disability Discrimination Act 1995 (as amended) provides that Codes may be produced to give practical guidance on how to avoid acts which are unlawful under Part 2, 3 or 4 of the DDA or on any other matter relating to the operation of any provision of those Parts, to public authorities on their disability equality duties, and on any other matter with a view to:

- promoting the equalisation of opportunities for disabled persons and persons who have had a disability; or

- encouraging good practice in the way such persons are treated.

Within these statutory parameters the audience and the role of a Code depends on the nature of the provisions which are being dealt with. The (Revised) Employment Code, for example, which is discussed in detail in this narrative, dealt with extremely complex legal issues and it was decided that the audience for this would be lawyers and tribunals, in order to ensure that those charged with interpreting it would be aware of the meaning of the provisions. The Disability Equality Duty Code, on the other hand (also discussed below) was aimed at those having to implement the duties ie public authorities, and its role was to explain to them some of the broad concepts relating to the duty, such as what 'equality of opportunity' means for disabled people.

Ownership of a Code

A statutory Code of Practice is a legal document, and this makes it different from any other guidance or information that a commission may produce. Both the DRC and the government / parliament have ownership of the Code, as it must be laid before Parliament by the relevant Secretary of State before being approved as a statutory Code. This can be a source of tension and the relationship between the DRC and the government department is critical to the progress and timing of the code. It is particularly important to know when to compromise over a particular point in the Code, and when to hold ground and maintain a stance on a particular aspect.

Background

The (Revised) Employment Code was published in 2004 to give practical guidance on the operation of Part 2 of the DDA (ie employment). The original Employment Code of Practice was issued by the Secretary of State for Education in 1996, and was developed to explain how disabled people are protected from discrimination when in employment, or when seeking employment. The (Revised) Employment Code took account of new concepts and the fact that the scope of the legislation had been widened considerably since the original Employment Code was issued. The aim of the (Revised) Employment Code was therefore to set out the understanding of the law as applied from October 2004.

The Disability Equality Duty Code (DED Code) for the public sector (England and Wales) completed its laying period before Parliament on 3 December 2005, and was issued by the DRC on 4 December 2005. The audience for the DED Code was public authorities. Due to the policy-based nature of the DED, a decision was made to use a less legalistic writing style for the DED Code than was necessary for the (Revised) Employment Code.

The revised Code for Part 3 of the DDA (Part 3 Code) was laid before Parliament on 8 June 2007 for a period of 40 days, and is now issued under section 53A (4) of the DDA December 2006. The Code was a revision of the consultative draft Code published by the DRC in August 2005 to take account of further duties introduced in the DDA 2005.

Developing Codes of Practice: who is involved?

Working groups

To guide the drafting of the (Revised) Employment Code, a project working group of four people was set up internally within the DRC. The effectiveness of this small working group was aided by the fact that members had worked together closely before, and had consequently developed a great deal of mutual trust and respect for one another. Another significant facilitating factor in the development of the (Revised) Employment Code was the distinctive and complementary expertise and experience of all group members. The backgrounds of the team members brought together the necessary relevant employment experience, knowledge of the law, ability to look at something from a broad perspective and the more detailed scrutiny to test the arguments. It was thought appropriate for the (Revised) Employment Code to have a specific working group member to take on the role of the drafter, and for one individual to be given the responsibility of researching and drafting the examples. The working group was made up predominantly of lawyers – necessary because of the nature of the concepts with which the Code was dealing (new provisions which needed much discussion). It was particularly important to have on the group a legal policy person who was involved with discussions with the government department producing the relevant legislation – they knew what the key issues were, where compromises in relation to the legislation etc could be made and so their presence was vital.

The structure of the working group and division of labour for the DED Code was less rigid than that used for the (Revised) Employment Code. Whilst discrete roles were still assigned to each member of the team – such as a previous local authority councillor with detailed practical knowledge being given sole responsibility for drafting the examples contained in the DED Code – there was also a certain degree of flexibility with regards to other members lending a hand with the drafting process. As with the (Revised) Employment Code, the decision was made for someone to take on the role of lead draftsman and take ownership of that part of the process. In this case it was appropriate for this position to be filled by someone with a legal background, prior involvement in drafting DRC Codes and with experience of working on the DED to ensure a firm grounding in the legal policy background of the DED Code. However, flexibility amongst the roles and responsibilities of the team members enabled other members of the team to also be involved in sections of the drafting. Due to the high profile of the DED Code, the team was conscious of the danger of applying too much pressure to one person and to risk reducing the opportunities to learn from each other. In addition, limited time meant that it was not always feasible for one person to do all the drafting necessary.

Sometimes it is useful to be a bit flexible about the way in which we work. It is very dependent on the personalities of the team members involved, and what will work best for everyone. This is a conversation to have early on.

Working group member

During the drafting of the DED Code, there was at points a struggle to obtain policy input from other areas in the DRC, which was thought to be a critical factor in the process. This was attributed to a lack of time and resources required to ensure the internal awareness-raising required to make colleagues more aware about the DED, and respond better to

requests around the DED Code. There was also a question over the extent to which colleagues understood the role Codes of Practice play more widely and their importance and power as a statutory document. A greater general awareness was thought likely to boost involvement levels and inclination to provide useful information to support the process.

If we had the chance to do it again, I would organise a meeting with Policy before the DED Code was started to talk about the Disability Equality Duty, and the role that Codes play more widely. People don't understand much about what Codes are for at all it seems – it would make people more willing to input into them and then use them more widely as well.

Working group member

External involvement

It isn't just internal input that contributes to a Code, however. External involvement is also important, though any external involvee must be aware of their remit ie that the Codes are owned by the DRC and the government, and that external involvees will not have decision-making powers, but can make an important contribution to the Code.

For an early draft of the DED Code, an external lawyer with expertise on the Race Equality Duty was brought in to provide an outside perspective at the drafting stage prior to consultation. Similarly, an external reference group was also made up from disability organisations. The public sector (with representation from the two other commissions – the CRE and EOC) was also used to provide input to the various concepts discussed in the DED Code such as involvement. External involvement in the DED Code was distinct from external involvement in the other Codes: it was aimed at discussing the broad concepts of the Duty, such as equality of opportunity and involvement, rather than the detail of the law and examples used.

External involvement was also important for the Revised Employment Code. For example, there was a consultation group which consisted of various stakeholders, including the Trades Union Congress, lawyers, disability organisations and employers representatives. There was also a reference group consisting of primarily lawyers in the equality field, including those working for an employers' disability organisation. This group was used for the more detailed issues around drafting. The input from this group of external lawyers was invaluable during this process, both for commenting on draft chapters of the (Revised) Employment Code and for helping to settle any issues with the relevant government department along the way. The complexity of the (Revised) Employment Code made it necessary for the drafting to go through many revisions before being confident that the emphasis and structure of the Code was right. The wider consultation group was particularly useful on tone and broader content issues. The benefit of external input from those able to stand back from the process was very marked, and caused the working group at points to re-think their initial ideas by viewing the nuances and emphases in a different way. One legal expert was asked to comment in particular on one controversial chapter in the (Revised) Employment Code, which was extremely helpful. In order to minimise the repetition of work, the input of an external reference group was most beneficial at the initial stages of the process, before drafting the final versions of the chapters.

Steering Groups

As the (Revised) Employment Code was drafted internally within the DRC, a Steering Group was set up to provide help in overcoming the challenges facing the working group throughout the process, as well as accountability. The Steering Group was tasked with the central role of providing a structured process for signing off the draft (Revised) Employment Code, and creating a forum through which

controversial decisions could be made. There was also one member of the Group who formed the bridge between the working group and the Steering Group by sitting on both, and acting as a useful conduit for concerns or feedback to flow between each.

I tend to work in quite a theoretical way, so the input of the Steering Group was vital in terms of making it more real. I think the input of the steering group has helped those using the Codes to learn how to apply things in real life and to keep the process on track throughout. The more aligned and in touch the steering group can be with the thoughts and progress of the working group, the better.

Working group member

For the DED Code, a group of Commissioners was formed to oversee work on the Disability Equality Duty in general, as this was a significant work stream for the DRC. As part of this general role, the group also oversaw the production of the DED Code. Their prior knowledge of the DED and their existing working relationships greatly facilitated the role of the Steering Group, alongside the heavy involvement of the DRC Director in the working group itself. Having a working group member also sitting on the Steering Group was advantageous to the process in that it enabled the two groups to become more aligned when making political decisions affecting the development of the DED Code. Similarly, other working group members also found attending the commissioner meetings useful.

Audiences and vocabulary

Audiences

A significant challenge faced in drafting the (Revised) Employment Code was the sheer complexity of the law, and the complicated nature of the changes to legislation. This was particularly in relation to the introduction of the concept of direct discrimination to the DDA which had never featured in the DDA previously. One of the main challenges was therefore the decision over who the main audience for the (Revised) Employment Code was to be, and the extent to which the legalistic approach required to do justice to the revisions would be likely to alienate an important section of the potential audience.

There was a real tension in drafting this Code between our job of explaining the law to lawyers sufficiently for them to understand the new law, against making the Code accessible to the layman. This was a tension that had to be resolved very quickly. **Working group member**

The Steering Group formed an important role in this discussion, with debate leading to a policy decision that the (Revised) Employment Code must be aimed towards helping lawyers when advising their clients and assisting courts and tribunals in interpreting new concepts.

We took a decision that our first priority was to the lawyers, and unless we produced something they could understand there would be nobody to explain to others. **Steering Group member**

The consequence of this decision led to the drafting of a highly comprehensive and detailed (Revised) Employment Code using concepts and language aimed specifically at the legal profession. Because of this, the DRC decided to produce a range of additional information to help disabled people and employers alike to understand their rights and responsibilities. The existence of this supporting material was clearly outlined during the introduction of the (Revised) Employment Code to avoid confusion and disengagement from the Code on a wider scale. This approach was deemed by the working group to be the best way of reaching all the necessary target groups in the most effective way.

Unlike the (Revised) Employment Code, lawyers were not the main audience for the Part 3 Code. This Code was aimed instead at those affected by the duties. In addition, the DRC did not want to alienate those who were already familiar with the Part 3 Code and on whom the new duties coming into force would have no effect. This difference in audience, and other challenges faced in this revision, led to a slightly different approach being used with a smaller working team consisting of mainly three people, with some input from another lawyer in the litigation department.

An important consideration for the working group in revising the Part 3 Code was to remain conscious of the need to carry the audience from the original Code with them in their drafting. Whilst being sensitive to retain the familiar concepts of the Part 3 Code for the original audience, there was also a need to appeal to new constituents concerned with the extension of service provisions. It was therefore necessary to monitor the language used and the style and complexity of the writing in detail.

Vocabulary

As the primary audience for the Part 3 Code was the service providers, a large challenge was faced in trying to simplify some of the language used in the DDA. The sheer complexity of the law involved made it a difficult task to simplify some of the language used. For example, there was a need to accommodate the new concept about public authority functions and private clubs, as well as explain the new duties on landlords in relation to reasonable adjustments. Much of the language required for these revised sections of the Part 3 Code was more complicated even than that used in the original version, and therefore needed to be ironed out to ensure consistency throughout.

The Code had to be revised because of new bits of the law coming in, but we didn't want to unsettle those service providers who were already familiar with the concepts and the Code, other than to update it with principles derived from a couple of cases. Some of the new language didn't sit well with the original version, so we had to pay careful consideration to this.

Working group member

Editing

This editing process was fundamental to ensuring the minimal ambiguity required to uphold the most power in the courtroom. There was recognised potential for those people not involved previously in the editing process to undervalue the robustness of this process. The editing of a Code such as the Part 3 Code was found to be distinct from other editing processes requiring a particular combination of qualities and expertise such as legal experience, knowledge of the policy and literary context and a keen eye for detail. Careful thought must therefore be given to who would be most appropriate to fill this role.

Codes are quoted in the law, and are statutory documents. They are highly scrutinised and if there is any ambiguity then they will lose weight. The person performing the role of editor needs to have a legal background and one which is preferably steeped in the DDA. **Working group member**

A key piece of learning from this revision was around the specific discipline required for making revisions to Codes rather than starting from scratch.

There are pros and cons of revising a Code – in some respects you have a starting point, which is useful, but on the other side editing and adding to other people's work can be really difficult. This can often be more time-consuming than when you are coming at it from scratch. **Working group member**

Process and, timetabling for Codes of Practice

Process

Despite the changes to the (Revised) Employment Code being billed as a revision, the fact that this was the first time the employment provisions were being changed (and the fact that the changes were significant and complex) meant in reality that the process needed to be started again almost from scratch. The final revision of the Employment Code ended up being twice as long as the original Code, with drafting starting in 2002 and taking two years in total to complete.

The success of the working group in working together was crucial in the drafting and analysis process, for which meetings lasting two days in length were set up every couple of months. Due to the complexity of the language and concepts described in the (Revised) Employment Code, the face-to-face meeting discussions were essential in analysing chunks of the report in detail. Challenges were also faced in the complexity of the law, making it necessary for those team members who were not employment lawyers by trade to put in extra efforts to get up to speed with the terminology and legal background.

The group were careful to capture individual action points from the meetings to ensure that everyone was tasked with the individual responsibility of progressing a specific area before the next meeting. The designated drafter also usefully prepared detailed commentary and probing questions in

between meetings about the drafted sections, which allowed the structure of the meetings to flow and thinking to be focused upon specific areas.

It was a highly iterative process of constant refining, road-testing, reality-testing and checking. It was often necessary to concede that something wasn't working, and to re-think, take stock and try another tack... we had to be highly flexible in our thinking as well, as part of the iterative process is that you don't know where you are going to end up.

Working group member

Documenting meetings

The importance of taking accurate meeting records through detailed minute-taking was a key piece of learning to emerge from working on the DED Code. Whilst a small group working together on an informal basis was beneficial for the development of the DED Code in many ways, it also ran the potential risk of failing to keep an accurate record of discussions and decisions made. The presence of a minute taker at every meeting would have removed the responsibility from the working group members of taking notes as well as actively participating. This was in large part a resources issue.

Timetabling

As with many of the Codes, not enough time was left in the timetable for the process of editing the (Revised) Employment Code, both before and following the consultation exercise. Following comments largely provided by government during the consultation process, there were a couple of chapters which needed large-scale re-structuring which would undoubtedly have benefited from a greater expanse of time. As such, the length and complexity of the

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(Revised) Employment Code led to a crucial need for someone to take on the role of the editor.

The timescale for drafting the DED Code of Practice was greatly restricted by the need to be ready for public release one year in advance of the DED itself coming into force. This led to a very tight turn-around for the first draft, with only two months drafting time built into the timescale before going out to external consultation. It was therefore crucial to stick to the structured timetable to ensure that three months were allowed following the consultation period to make weighty revisions in light of the feedback provided. Certain methods were used to make the drafting process more streamlined and ensure the team were as economic with the time available to them as possible.

Challenges of the consultation process

Consultation and timetabling

Managing the expectations of the public when Codes are put out to consultation was found to be crucial. This was particularly the case for Codes to which revisions were being made, as comments came back through consultation based on non-revised parts of the Code in question.

Focusing the feedback on the newly-revised sections of Codes, rather than reopening sections for consultation that had been previously consulted on, was therefore crucial. In the case of the Part 3 Code, due to the need for this revision to encompass such a large degree of new material, there was also a big task in assuring the additions to the Part 3 Code were in line with the retained and relevant sections of the original Code.

There were a large number of revisions made on the DED Code following a three-month public consultation period which yielded some useful, yet challenging, feedback. This was partly attributed to a number of new areas added to the Bill at the last minute, leaving very little time to address these in the original draft. Whilst quantitative feedback was both useful and relatively straightforward to respond to, considerable attention and time was needed to appropriately address the extensive qualitative feedback which arrived towards the end of the consultation process. It was therefore crucial when timetabling that an adequate amount of time was allowed for these revisions to be made.

Although putting aside three months for revisions seems like a generous amount of time, in reality the majority of the qualitative feedback often

comes in very late in the day and doesn't give you a lot of time to reach a position on issues and draft around them. **Working group member**

Responding to the consultation process

The extensive revisions made to the DED Code in response to the consultation process were positive, both in terms of raising the profile of the DED Code and ensuring people that their feedback had been taken seriously and their comments taken on board. One particular piece of feedback focused on the need to address the subject of potentially favourable treatment when taking care of a person with a disability. The first draft of the DED Code deliberately made little reference to this, due to concern that people would get confused with positive discrimination. However, response to feedback from the consultation showed a common desire for this term to be explained in more detail, which led to the inclusion of new drafting sections explaining the details of the new law and addressing the impact of the duty in relation to reasonable adjustments. This consultation process was therefore used as a useful method for gauging the level of public awareness of certain concepts and the public desire for further information.

National perspectives

Because there were different regulations produce in Scotland, there had to be a separate DED Code of Practice for Scotland. Whereas other Codes had been adapted to account for the Scottish perspective, an entirely distinct DED Code was necessary allowing for a tight focus upon Scottish issues. This had broadly the same content as the English and Welsh Code – it was particularly important that there be consistency between the two Codes with regards to the relevant principles whilst having differences in relation to examples, terminology and regulations. A strong and productive relationship was formed between the Scottish and London offices during this process, which aided the simultaneous development of these Codes.

The main learning for the CEHR

There are identifiable pieces of learning to be taken from the development and revision of these Codes of Practice, which should be taken forward to and fed into future work on Codes. These are briefly summarised below:

Worth investing significant resources: Producing Codes of Practice requires significant resources. This investment produces substantial dividends in terms of shaping law and practice, and enhancing the authority of the DRC and the law.

The working groups: Each member of the working group should ideally bring different qualities to the exercise in order to justify their membership and ensure a cross-section of skills and experience. Relevant knowledge of the law, previous experience on Codes, the ability to scrutinise, edit and view something from a broad perspective are all qualities which add value to the process. The crucial importance of legal input to this working team must be recognised and valued from the outset.

Size of the working group: The appropriate size of the group is dependent on the timescale of the drafting process and nature of the Code. It is important to have enough people to be viable but not so many that it becomes unwieldy and difficult to schedule regular meetings. The most effective groups at the DRC have had between three and five members, enabling regular meetings alongside the cross-fertilisation of ideas.

Informal versus formal working processes: The ways of working within each group will be dependent on the personalities and working relationships formed within each. Whilst some Codes will benefit from an informal and flexible

working process, others needing to be drafted to a short timescale may be more appropriately run on a more formal basis using a rigid structure and assignment of roles and duties.

Using external expertise: It is crucial to ensure that relevant stakeholders are aware of the Code and feel that they have had adequate opportunity to input into it. The development of Codes is also likely to benefit from external legal expertise in order to clarify complex terminology and provide another legal perspective.

The role of the steering group: The steering group plays a vital role in providing accountability, giving an appropriate steer to drafters and to ensuring that the drafting process is kept on track with the agreed timescale. This group takes overall control for the project and takes responsibility for challenging policy decisions. The real power of the steering group is thought to be both in guiding the workings but also in providing another perspective.

Timetabling: Strict time-tabling at the beginning of the process is fundamental to ensuring that the time taken to respond to comments in the consultation is not underestimated. Qualitative comments often come in at the very end of the consultation process, and this needs to be accounted for when projecting forward in time.

The editing process: It is crucial to leave enough space in the timetable for the editing stage to occur before the draft goes out for consultation. This is often not accounted for at the beginning of the process, and is key to ensuring that the document is both easy to understand and avoids ambiguity and contradiction.

Use of examples: The DRC Codes are known for their illustrative examples in bringing to life some of the more complex and theoretical concepts used within the Codes. Examples used throughout the Codes are thought to be

powerful in terms of ensuring the Code is useful to people on the ground, and is made meaningful to the audience for which it is intended.

National perspectives: A key piece of learning from DRC work has been the importance of involving colleagues from Scotland and Wales at an early stage in the development of the Codes. A constant awareness of the limited resources in the Scottish and Welsh offices is crucial to enabling enough time to be factored into the drafting process for adequate input from all three nations. This is of particular importance with regards to gathering examples for use in the Codes, which need to reflect individual Scottish and Welsh circumstances to be of use within these countries.

Control of the process: The importance of maintaining the internal control and drive of a Code has been strongly felt by all those involved in developing DRC Codes in the past few years. Aside from the obvious practical implications of managing a process with heavy reliance on external input, there have also been credibility issues for the DRC both in terms of visibly driving the Codes and being viewed externally to have the expertise to draft the Code in-house. Whilst external help and input has been appropriate and valuable particularly from the legal point of view, there have been obvious down-sides for an over-reliance on external expertise and the potential loss of valuable knowledge accrued during the drafting process.