

## Call for Evidence, Disabled Students Inquiry

**DEADLINE: 31<sup>st</sup> January 2020**

### **About the Higher Education Commission**

The Higher Education Commission is an independent body made up of leaders from the education sector, the business community, and the three major political parties. The Commission examines higher education policy, holds evidence-based inquiries, and produces written reports with recommendations for policymakers. Previous reports by the Higher Education Commission have investigated degree apprenticeships, international exports, postgraduate education, the regulation of higher education, the financial sustainability of the sector, learning analytics, and diversity of provision.

### **The Commission's eighth inquiry**

Despite hard-fought improvements to equalities legislation in recent decades, disabled students continue to be under-represented, frustrated by their experience and to achieve outcomes below their potential. The Commission is seeking to uncover the reasons for these disparities so as to advise Government and the sector on how to give students the support they need. The Commission's eighth inquiry will examine the experiences of disabled students at university across three strands: a) teaching and learning, b) living and social, and c) transitions and employment. The key research questions are:

1. What are the challenges facing disabled students, and how do these manifest in the three areas of teaching and learning, living and social, and transitions and employment?
2. What are the views of stakeholders on whether existing interventions and policies are adequate?
3. What good practice exists regarding the experiences and outcomes of disabled students at university?

### **Instructions for submissions of evidence**

Please use the questions below to frame your response to the call for evidence, but do not feel restricted by or compelled to answer every question. We would like to invite responses to the 'General questions' from higher education providers (HEPs) and departments or organisations providing support services to disabled students in HE, but also from other organisations including sector bodies representing HEPs, support providers, non-medical help providers, etc.

We would like to invite responses to the 'Leadership and strategy' questions from people working at a strategic level within their HEP. We have split the 'Provision of support' questions into two categories: respondents from a department or team within a higher education institution providing support services for disabled students, and organisations which provide support services to disabled students but operate independently/externally to an HEP.

The Commission welcomes all types of evidence, from data, including analysis or internal studies your organisation has carried out, to personal or organisational views on these issues. We will be asking some sensitive questions in the call for evidence and are therefore happy to offer anonymity. Please express any requests for anonymity in your evidence submission. Submissions of evidence will not be published and the Commission will seek your permission before quoting from evidence submissions in our final report. The Commission's secretariat will also be conducting informal interviews to inform the inquiry – please let us know when submitting if you would like to discuss the topic in more detail.

The deadline for submission of evidence is Friday 31<sup>st</sup> January. Evidence can be submitted to Megan Hector at [megan.hector@policyconnect.org.uk](mailto:megan.hector@policyconnect.org.uk). For more information about the Commission, please visit [the Policy Connect website](#) or contact Megan Hector.

### **Respondent information:**

- 1. What is your name and role?**  
Rebecca Scarlett, Senior Policy & Information Officer
  
- 2. Which institution or organisation are you submitting evidence on behalf of?**  
Lead Scotland – we run a national Disabled Students Helpline and use the evidence to influence and inform policies affecting disabled learners in Scotland
  
- 3. Do you give permission for the Commission to quote your submission?**  
Yes
  
- 4. Can we attribute the submission to the institution/organisation?**  
Yes
  
- 5. Can we attribute the submission to you personally?**  
Yes

### [About Lead Scotland](#)

Lead Scotland is a charity that enables disabled adults and carers to access inclusive learning opportunities. At a local level, we do this by providing direct support to learners through flexible person-centred learning opportunities and individualised guidance and support to help them plan their learning journeys. At a national level, we provide information and advice on the full range of post-school learning and training opportunities, as well as influencing and informing policies affecting disabled learners in Scotland.

Our national [Disabled Student's Helpline](#) supports parents, carers, young people and adults to understand and explore the range of post-school learning options available to them in Scotland. We also provide information and advice to help navigate the often-complex policies and procedures in place to access appropriate support and funding to take up a post school learning opportunity. We also produce a [suite of online guides related to disability and post-school learning](#).

We chair and co-host the 'Improving outcomes for Disabled Students Group' with the Scottish Funding Council and are key members of the Scottish Government and

SAAS 'Disability related student support review' steering group. Our response relates to the experiences of Scottish-domiciled disabled students only, as education is devolved in Scotland, but there will undoubtedly be parallels with their experiences as those of disabled students from the rest of the UK.

### General questions

- **Do you feel that existing regulations and legislation with regards to disabled students' rights in education are sufficient?**

No, we believe existing regulations and legislation regarding disabled students' rights do not allow sufficient access to the support they require to assert their rights, resolve disputes, and gain redress. Evidence from Lead Scotland's Disabled Students' helpline suggests there are a lack of suitable services able to provide advocacy and representation for disabled students who are in dispute with their institution. Over a third of our calls relate to a disabled student making a complaint or appeal after experiencing issues around appropriate support and adjustments on their course. Students and their families regularly report experiences of disability discrimination, normally in the form of 'failure to provide reasonable adjustments', rather than overt direct discrimination. A lack of training and inappropriate culture and attitude towards disabled people are possible causes for what appears to be a systemic issue, and we are trying to influence change in this area with our policy work.

The impact of not getting the appropriate support to learn and study at college and university can be significant, with callers and their families reporting a deterioration in physical and mental wellbeing, an increase in suicidal thoughts, lower pass marks than expected, interruptions to their studies and ultimately for some students, early withdrawal before completion. Students who have had to leave their course before completion report worsening of their impairment, isolation, depression, unemployment or underemployment, and reliance on social security benefits. Students who achieve a pass mark lower than a 2:1 at degree level have limited options for postgraduate study, lower level job prospects and lower earnings potential, as [highlighted in this BIS report](#).

A recent discussion paper about [Disabled Students at University](#) from the [Commissioner for Fair Access](#), showed disabled students, particularly those with mental health issues or autism, were more likely to withdraw from their course than non-disabled students, and were less likely to achieve a 1<sup>st</sup>/2:1 degree classification.

Currently students can only access representation from their institution's students' association to enter into a formal complaints or appeal procedure. However, callers report a number of issues with this, including capacity, limited remit and lack of specialist knowledge from their student representatives. Student associations are mainly staffed by student volunteers and although they are separately constituted from institutions, callers report either a perception of, or actual experience of bias in favour of the institution. NUS Scotland confirmed that providing in-depth advice, advocacy and representation for disabled students in dispute with their institution

was out with the remit of Student Associations. Cases can be complex and drawn out, so a specific skill set and level of knowledge and expertise in both disability and the tertiary education system is required.

The actual process of entering into a complaints or appeals procedure is also problematic. Students need to concurrently manage their impairment or health condition as well as their studies, while also trying to understand arduous and complex complaint and appeal procedures. They are required to collect appropriate evidence to support their complaint and then need to compose an articulate and convincing statement to challenge their institution. The institution can then take months (more than six months in some of the cases I have supported) to investigate and respond and are free to assign their own solicitors and senior staff to the cases. Students may be asked to attend meetings for further investigation as well as appear at hearings and panels. There are very few services that have the capacity and remit to provide independent support and advocacy for students during these meetings. The responsibility often falls to a family member, which can create a significant level of stress and emotional burden.

While all this is going on, the student may still be waiting for the appropriate support, equipment or adjustments they need in order to fully access their course, further disadvantaging them and impacting their potential to successfully complete their studies. One higher education student with multiple impairments had no equipment in place when they started their course, despite disclosing as disabled and stating their needs six months before the course started. The scales in this system are very much tipped against students. They face taking on an entire institution by themselves and may have limited energy or the appropriate skill set to engage in the process fully, reducing their chances of success.

To further complicate matters, many of the students we speak to are reluctant to make formal complaints for fear of repercussion in how they will be treated and subsequently assessed on their course. Many do try to speak up, but if the first attempt fails, they may struggle to do so again and just accept the situation. This happened to one visually impaired student we supported after their tutors did not follow their support plan to provide materials in alternative formats. They found it very difficult to ask for support as they felt they were adding to their tutors' workload and being an inconvenience. They did speak up once, but nothing changed. They didn't feel they could speak up again, eventually failed the course and were forced to repeat the year.

Many of the students and families contacting our helpline have asked us to provide advocacy and representation in these procedures. There seems to be a higher demand for this support from cases involving autistic students or those with mental health issues. This supports the findings from the Commissioner's discussion paper referenced earlier and is likely due to the issues these students experience with confidence, assertiveness, anxiety, social interaction and communication. I have written supporting letters on occasion and have acted as an advocate by email only in a very few select cases, however doing so created an unmanageable burden on my workload, as cases can be complex and drag on for months. I have never

attended any meetings as not only does this go beyond my remit, our helpline covers the whole of Scotland, so it's just not practical.

I signpost callers to local advocacy organisations, however they have very limited capacity and strict criteria, so it is rare for them to be able to take on the cases. Previously, there was a service available for disabled people in dispute with service providers, delivered and funded by the Disability Rights Commission, called the Disability Rights Conciliation Service. However, it was discontinued when the DRC was disbanded in the transition to the Equality & Human Rights Commission following the introduction of the Equality Act. I enquired with the EHRC why this service no longer existed under their remit, and they indicated it was because it was not financially viable to continue it.

There are processes, systems and organisations in place to provide mandatory advocacy, mediation, conciliation and tribunal services for disabled people and families of children with additional support needs in dispute with their employers or local education authorities in Scotland. There is no equivalent system for disabled students at college or university, and therefore no pathways for redress and a lack of parity.

Our helpline callers are also increasingly reporting it is impossible to access legal advice or representation for disability discrimination in post-school education cases. This is because there are very few solicitors in Scotland currently willing or able to take these cases on using legal aid, due to the fact they lack the expertise and because legal aid is very difficult to secure. We hear about disabled students experiencing discrimination on a daily basis as they struggle to access learning or feel included, having to fight and justify why they require support and adjustments. Culture and attitude are still major barriers to access and inclusion yet challenging an institution can seem like an insurmountable task for disabled students and their families. With very few solicitors in Scotland willing or able to take these cases on, we have to question the point of having equality legislation if it cannot be used to legally challenge organisations.

- **Do you feel that the current system of monitoring the support and provision for disabled students in higher education is adequate?**

In Scotland, support and provision for disabled students is monitored informally, usually via internal data collected using voluntary feedback forms and surveys. There is no external body responsible for inspecting and quality assuring the standard of support and provision given to disabled students, unlike in the social services sector. If students experience issues with their support, their only option is to make an internal complaint, and then an external complaint to the SPSO, but as detailed above, this is not a viable option to resolve issues in the short term. The National Student Survey does not include questions related to support for disabled

students, so their experiences are not being collected and monitored on a national scale. While data related to intake, retention and degree outcomes is collected for disabled students, this data doesn't capture their actual experiences.

## Organisations independent of an HEP:

- **In your experience of supporting disabled students, do they experience more challenges in one particular area (from teaching and learning, living and social, and transitions and employment) than in another?**

The evidence from our helpline would suggest issues are more common in transition and employment as well as teaching and learning. Students still report issues with living and the social aspects of university, but it is often the previous two that cause the most barriers for their retention and progression.

- **Are there any common challenges that you see many students facing in these areas? What would you suggest to combat these?**

### Students experiencing issues when trying to access reasonable adjustments

We receive more calls about this than any other topic on the helpline from students experiencing issues with accessing appropriate reasonable adjustments from academic staff. There seem to be issues around disability knowledge, training, awareness and duties under the Equality Act for some staff. Other issues include adjustments being agreed to in principle and put in a plan, but not happening in practice. We provided evidence to the Equalities and Human Rights Committee's enquiry into '[Disabilities and Universities](#)' at the Scottish Parliament in 2016/17, and the report recommended mandatory rights based equality training for all academic staff. This remains an on-going issue.

### Delays

The biggest issue we hear about [Disabled Students' Allowance](#) (DSA) on the helpline is about the delays students experience in being awarded the fund, with some reporting it can take up to five months. This means that support is not always in place in time and can add considerable stress and further disadvantage disabled students. From talking to students and from my discussions with disability services, it sounds like the length of time it takes is partly related to the volume of students applying and the capacity of the disability services to respond, especially during peak times. We are key members of the Scottish Government 'Disability related student support review' steering group and are currently supporting with a set of student and parent surveys related to DSA and other support, to be disseminated in early Spring. As these issues relate to the Scottish system, the most appropriate universal recommendation would be to invest more in disability support services to build the resources and capacity of staff.

### Alternative Assessments

There seems to be a lot of resistance and reluctance to offer assessments in alternative formats, especially as an alternative to examinations. The right to an alternative assessment is a clear provision of the Equality Act, however adjustments to the way an assessment is accessed seems to be more common than providing an actual alternative assessment. The practice of using exams as the key method to assess competencies will continue to put certain disabled students at a distinct disadvantage, for example those with mental health and memory issues.



- **If you have worked with any disabled students who eventually dropped out of higher education, were there any broad reasons behind this outcome? How could this be avoided in future?**

We have supported a number of disabled students on the helpline who were on interrupted study leave, had withdrawn or who had been asked to leave their course due to non-progression or attendance issues. There are various reasons disabled students eventually drop out of university, sometimes it's because they are not getting the appropriate support they need to learn and manage their health concurrently, or it could be due to inflexible policies related to attendance, deadlines and progression.

Students on the helpline report they often cannot keep up with the pace of their studies due to the impact on their health, but part time study is not available on a broad enough range of courses. We also often hear that if a student has had some absences or their condition has flared up, the default position by the university is often to ask the student to interrupt or withdraw, rather than exploring other more holistic options to support retention.

Ultimately, traditional higher education is not always suited to people with complex or fluctuating conditions, and while the Open University's offer is essential for disabled people, their set-up, delivery and range of courses will not suit everyone.

As previously mentioned, the Fair Access Commissioner's discussion paper on disabled students at university concluded that disabled students have lower retention rates than non-disabled students, and the disparity grows when you disaggregate the data by specific impairments. Retention for disabled students is a key issue across the sector, and some Scottish universities have responded by developing initiatives to support retention. For example, the University of Dundee have their [Stay On Course initiative](#), which offers targeted intervention for students at risk of withdrawing and support to develop a Stay On Course plan. Queen Margaret University Edinburgh operate a very similar programme as part of their [Wellbeing Service offer](#). These interventions are available to any students, including those who have not disclosed as being disabled, which is key considering many students with wellbeing issues do not identify as disabled.

Targeted and holistic support to remain on a course, increased flexibility in policies and practices, improved delivery of appropriate learning support and a broader range of courses available on a part time basis could all improve disabled students' retention rates.

- **What overall policy recommendations would you make to government or regulators to improve disabled students' experiences of higher education?**
- Improve access to funding for legal representation and advice



- Fund more advocacy services with appropriate expertise to support disabled students
- Fund a new Disability Conciliation Service for support with mediation and dispute resolution
- Offer a broader range of courses at part time
- Consider how to implement or regulate sustainable on-going disability equality training for all staff
- Implement an external quality assurance body to monitor support and the delivery of support plans for disabled students
- Support and encourage the sector to develop a broader range of assessments as an alternative to timed examinations