

# Disabled Students UK calls for increased oversight in response to Higher Education Commission report

This month, after a six-month Inquiry into disabled students' access, the Higher Education Commission (HEC) released a report with lessons for the government and the Higher Education sector<sup>1</sup>. It states *"we cannot shy away from the fact that our evidence demonstrates an unhappy situation for many disabled students"*. The evidence validates the voices of disabled student groups all over the country who have increasingly drawn attention to the barriers to access in the last few years<sup>2</sup>. As one such student group, Disabled Students UK welcomes the report as an important first step toward increased equity.

## Failures of oversight

The report takes a holistic approach and details not only the issues disabled students face in accessing their degrees, but many of the structural reasons behind them. We especially appreciate the focus on oversight bodies such as the Office for Students (OfS). It is our position that the persistence of failures detailed in the report, even 10 years after the introduction of the 2010 Equality Act, must be recognized as failures of oversight.

The 2019 Inquiry by the Women and Equalities Committee into the enforcement of the Equality Act finds that while regulators, inspectorates and ombudsmen have a duty of enforcing the 2010 Equality Act, many fail to do so<sup>3</sup>.

## The importance of oversight

The importance of oversight cannot be overstated in relation to disability, where the duty to make reasonable adjustments is anticipatory and the difficulty for individuals to make complaints is greater. As disabled student leaders, many of us within DSUK have tried to raise issues regarding lack of access within our universities, only to be ignored. Some have resolved this by going to the media or taking legal action, but these options are often inaccessible and/or cost-prohibitive to most disabled students. Additionally, unlike the legal system and the media,

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<sup>1</sup> <https://www.policyconnect.org.uk/research/arriving-thriving-learning-disabled-students-ensure-access-all>

<sup>2</sup> <https://disabledstudents.co.uk/resources/reports-and-findings/>

<sup>3</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/1470/1470.pdf>

(chapter 4)

oversight bodies have a unique position of being able to go beyond individual cases of discrimination to act preventatively - they can require universities to implement structural changes in an anticipatory fashion.

## Theory and practice

In theory, the responsibility for OfS to hold universities accountable is already laid out in their framework, which states that as a condition of registration HEPs must follow equality legislation. However, OfS requires little in terms of concrete steps toward this goal from HEPs, beyond that they create Access and Participation Plans.

This lack of concrete requirements continues a pattern of disability rights not being enforced within Higher Education. An effective lobbying campaign in the late 90s meant that HEPs were allowed to write 'disability statements' outlining what they could offer to disabled students instead of having to implement contemporary legal requirements<sup>4</sup>. In theory HEPs now have full responsibilities under the Equality Act 2010, and yet the main route of enforcement continues to be for universities to write their own plan.

## HEC calls for increased monitoring

We were therefore delighted to see the Higher Education Commission make recommendations for OfS to take a more active role in monitoring disabled students' access, including:

1. Requiring Higher Education Providers to report information about the disability inclusion training they provide for staff
2. Researching the extent to which HEP's are reducing disabled students' administrative burden
3. Monitoring the qualitative experience of disabled students, for instance through the National Student Survey

## DSUK calls for concrete rules and transparent consequences

At Disabled Students UK we wish to add that these ways of monitoring disabled students' access must be accompanied by clear and transparent rules for what type of findings are acceptable. If the qualitative monitoring reveals that 25 percent of disabled students at a particular university have to wait months for their access to be in place, is this acceptable? If an

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<sup>4</sup> Teresa Tinklin , Sheila Riddell & Alastair Wilson (2004) Policy and provision for disabled students in higher education in Scotland and England: the current state of play, *Studies in Higher Education*, 29:5, 637-657, DOI: 10.1080/0307507042000261599

access and participation plan reveals that a university has made their staff Disability Equality Training voluntary, is this acceptable? Right now universities are not sure which anticipatory (such as staff training) are necessary and which are just nice to have. Nor are they sure what accessibility outcomes are acceptable and what are grey areas.

We suggest that these rules should be created in consultation with disabled students and should reflect the social model of disability as well as the rights laid out for disabled students in the 2010 Equality Act and clarified for Higher Education by the Equality and Human Rights Commission in 2015.

In the same vein of clarity and accountability, information about the consequences for HEPs which fail to provide students with acceptable access must also be made transparent—whether those be deregistration, monetary penalties or additional conditions for continued registration.

## Why during a pandemic?

Why should we be thinking about structural improvements to disabled students' access during a pandemic? As we detail in our report “The Impact of the Pandemic on Disabled Students”<sup>5</sup>, the pandemic has been holding up a mirror to the sector regarding its poor treatment of disabled students. Adjustments, such as access to recordings, that disabled students have been denied for years, were suddenly made available when non-disabled students needed them. At the same time, new access needs, such as the need for captions, have often not been prioritised.

The pandemic has increased our understanding of the importance of accessibility for shock tolerance and as something that benefits the wider student body. The HEC report argues that the pandemic offers a unique opportunity to rebuild the sector and get things right: “We must harness this time of great change in the sector to ensure that accessibility is built in to all teaching and learning from the outset.”

Supported by the comprehensive evidence detailed in the report, we therefore call on the government and OfS to show their commitment toward more equitable access to education for disabled students by adopting these concrete steps to enforce the rights of disabled students in Higher Education.

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<sup>5</sup> [https://disabledstudents.co.uk/DSUK\\_Report\\_Update.pdf](https://disabledstudents.co.uk/DSUK_Report_Update.pdf)

# Additional information

## 4 Key issues at university level raised by the report

The report addresses structural failings within Higher Education Providers (HEPs). We have observed some of these issues to be fundamental in preventing disabled students from accessing the bare minimum of our legal rights:

### **A prohibitive administrative burden**

The report states that *“We found that disabled students face a number of additional pressures in comparison to non-disabled students, including the heavy administrative burden created by having to apply for, be assessed for, organise and chase up the support they need”*.

In spring, we at DSUK wrote our own report, [“The Impact of the Pandemic on Disabled Students”](#), where we show that the pandemic has provided an excellent example of how this administrative burden in effect blocks students from support. When the mode of teaching changed in March, the adjustments disabled students needed changed as well. And yet for months, many of our students reported not being provided with the new adjustments they needed due to the slow and effortful process of administration. This sometimes included requiring evidence that was impossible to acquire due to lockdown and evidence for conditions which had already been evidenced by the student in the past. It is damning evidence on the state of the sector that during a pandemic HEPs prioritised requiring a vulnerable group to prove their accessibility needs, even as this resulted in the students being shut out of their education.

This administrative blocking effect during the pandemic mirrors the situation that many disabled students already faced in the beginning of their degrees. A 2020 UCL report and a 2018 Cambridge report show that it is not rare for students to have to wait months after they start their degree for their support to be put in place. This despite the fact that the Equality and Human Rights commission have specified that disabled students must not be put at a significant disadvantage by delays or excessive administrative burdens.

## Unclear structures of responsibility

Failure to implement a disabled student's support plan, even once it had been evidenced and approved, was the second most common cause of inaccessible teaching identified by students in the HEC survey:

*"The majority of responses in this category stated that the requirements of the student's support plan were almost never implemented, rather than only happening sporadically, or staff occasionally forgetting."*

Failure to implement a student's support plan results not only in a continued delay of the student's access to teaching, but further increases the administrative burden on students, who rarely state that they receive support from HEP staff in chasing up adjustments.

This accords with our own experience that universities often fail to communicate responsibility between and within different departments. In short, no one knows whose job it is to provide students with access and so the student is bounced from staff member to staff member until they give up due to the lack of results and the amount of time and effort involved in continuing to pursue the accommodation they need.

The report notes the importance of clear top-down leadership as a solution and highlights positive examples where senior management taking ownership of the issue has led to improvements.

## Lack of staff training

Another major issue noted by the report is resistance to adjustments from academic staff: *"It's evident [...] that academics not putting in place reasonable adjustments, let alone anticipating the needs of a diverse student cohort when planning lectures and seminars, is a key barrier to disabled students' access to teaching and learning."*

The report suggests that a lack of training causes staff not to understand how to implement reasonable adjustments or make their teaching accessible: Often the failure to implement support plans can be attributed to problematic attitudes as well as ignorance. In line with our own experiences, the report details students being treated as if their conditions are not real, their symptoms are exaggerated, they are lazy or simply need to work harder. Other students report being treated condescendingly, or staff having low expectations of them. In some cases we even have evidence to suggest that the effort that would be involved in providing a simple reasonable adjustment causes staff to encourage the student to take time out of their studies instead.

The report therefore suggests that staff training around the practical aspects of accessibility should be paired with raising awareness among staff regarding disabled students' needs.

## Dysfunctional self-correcting mechanisms

A fourth key issue raised by the report is that of an inaccessible complaints process. Despite complaints by disabled students being overrepresented among those upheld by the ombudsman Office of the Independent Adjudicator for Higher Education (OIAHE), there is substantial evidence to suggest that disabled students are reluctant to make complaints: *“It’s therefore likely that far more disabled students are experiencing discriminatory behaviour than the number represented in the complaints data from individual institutions or the OIAHE.”*

The report goes on to argue that the evidence suggests that the length and administrative burden of the process as well as the lack of advocacy and support is preventing disabled students from complaining. At DSUK, we run a peer support group for disabled students going through the complaints procedure. We cannot overstate the level of distress the process puts students through. Rather than being a vehicle for universities to take responsibility and learn from their mistakes, it is our experience that this is an arduous process which often serves the purpose of preserving the reputation of the institution.

## The HEC report

The report “Arriving at Thriving, learning from disabled students to ensure access for all” was released by the Higher Education Commission in October. The report is based on survey responses of over 500 disabled students as well as written statements and roundtable interviews with a number of stakeholders. The inquiry was chaired by Lord David Blunkett; Kathryn Mitchell, Vice Chancellor of the University of Derby; and Lord Philip Norton, Chair of the Higher Education Commission.

## Disabled Students UK

Disabled Students UK is a disabled-student-led organisation. We envision a world where disabled students have the same access to higher education as non-disabled students. We are working to make universities truly accountable to their disabled students and to disability law. We do this through peer support, research, disabled student representative networking, knowledge sharing and lobbying. Originally set up in February 2020 our members now include disabled student representatives from over 30 universities.

For more information, please contact Disabled Students UK at [contact@disabledstudents.co.uk](mailto:contact@disabledstudents.co.uk)