

Targeting funding for disabled students in Higher Education from 2016/17 onwards

Introduction

The National Union of Students (NUS) welcomes the opportunity to respond to this consultation on the proposed changes to disabled students' allowances in higher education.

NUS is a voluntary membership organisation which makes a real difference to the lives of students and its member students' unions. We are a confederation of 600 students' unions, amounting to more than 95 per cent of all higher and further education unions in the UK. Through our member students' unions, we represent the interests of more than seven million students. A central part of NUS' work is the Disabled Students' campaign, led by our Disabled Students' Officer, Maddy Kirkman. The campaign exists to represent, extend and defend the rights of disabled students.

While we welcome the Government's decision to consult on reforms to DSA for 2016/17, we are disappointed with the scope of the consultation which does not allow for comment on a number of areas affecting DSA within the current system. In particular, we would like to see further consultation and analysis of:

- The £200 contribution that students will be required to make when purchasing computers. We are still unsure on how this will be paid/ collected and feel that there needs to be safeguards in place to help in cases of particular hardship. We note at the beginning of this consultation it is written 'current DSAs funding arrangements do not recognise technological advances, increases in the use and ownership of technology [...] Taken together these changes may mean the barriers facing disabled students have changed'¹. However, there is little evidence to suggest this is the case. Our own research showed that almost half of disabled students used funding they received to obtain their laptops (45%) compared to non-disabled students (8%). For those reasons we do not accept that a £200 contribution to IT is justified: essential equipment should be provided without a contribution that many will be unable to afford.
- The definition of 'disabled' in the student support regulations will be explicitly stated as reflecting the definition of 'disabled' in the Equality Act 2010. We are concerned that a strictly medical-model approach will result in some disabled students, especially those with fluctuating conditions, losing out on support.
- The quality of non-medical help (NMH) provision. As we describe in more detail below, NUS receives frequent reports of poor quality NHM provision within the current system. There should be further discussion and consultation with stakeholders on how we can ensure high quality NHM provision within any proposed new DSA support going forward.

We would like BIS to consider these issues as relevant additional information as part of the ongoing Equality analysis of DSA reforms.

¹ BIS 'Consultation on targeting funding for disabled students in Higher Education from 2016/17 onwards' pp5.

Summary of recommendations

All of our recommendations are made in the context that:

- Any reforms to DSA will improve support for disabled students and will meet our five criteria: support will be high quality, timely, individualized, consistent and the student will have appropriate and speedy mechanisms for appeal and address.
- The budget for DSA and HEFCE's student opportunity funding for disabled students is maintained to ensure there is necessary support for disabled students accessing higher education and to ensure financial support is available for institutions which may struggle to support disabled students as a result of these reforms (see below).
- All changes are properly monitored, quality assured and evaluated to ensure they are not having a negative impact on disabled students.
- Reforms to DSA are delayed if BIS cannot guarantee our five principles will be met. Reforms may also need to be tested with some pilot institutions before being rolled out across providers to ensure our five principles can be met.

Section one: Background information on DSAs policy

- There needs to be greater consultation with the sector and crucially with disabled students on what is meant by 'inclusive education' and 'innovative practice' and how institutions will deliver this.
- BIS should identify institutions which may face financial difficulties in providing adequate support as a result of the proposed changes.
- Money should be redistributed from central funding pots to those providers with the greatest need to help them meet the financial costs of supporting disabled students and ensure there is consistency in the support disabled student receive.
- BIS should guarantee DSA and the HEFCE budget for disability is protected and increased to support HE providers with a high proportion of disabled students. There should also be an additional hardship fund for providers if they struggle over the year.
- Providers will need clear guidance about the minimum reasonable adjustments they are expected to deliver. Consideration should be given on how to prevent institutions doing the bare minimum rather than aiming for more ambitious programmes of work to make education more inclusive.

Section two: Non- Medical Help

- Particular attention needs to be given to the quality of non-medical help and what quality assurance measures will be put in place to ensure disabled students are receiving the highest level of non- medical help support.

- **The system should not be changed until a quality assurance mechanism is in place for NMH, standards are agreed which protect working conditions for those employed to deliver the support, time is taken to test innovative approaches and correct their deficiencies, and work is undertaken to ensure students are aware of the level of quality they are entitled to expect – and what to do if it is inadequate.**
- **We recommend guidance is developed for the sector that makes clear when individual support for NMH is essential, and that there is monitoring and evaluation of the extent to which student-support staff ratios change when any reforms are brought in and why.**
- **Building on our recommendation that money should be redistributed to those providers with the greatest need in meeting financial costs to support disabled students, all institutions should have access to a DSA top up for NMH.**
- **A banding system should be put in place so that the largest and wealthiest institutions take on a greater share of the cost of NMH provision than the smallest and poorest providers. We also recommend the Department consider a hardship exception for all roles that would be provided primarily by the provider.**

Section three: Accommodation, peripherals and consumables

- **We recommend that additional costs of providing specialist accommodation for disabled students should not be passed on to the student and that this cost should not be passed on to other students via rent increases.**
- **Disabled students should not be charged for additional rooms where overnight care is a necessity. Any reforms to who provide and pays for specialist accommodation needs to be clarified in guidance, particularly around the provision of additional rooms for overnight carers.**

Section four: Summary and Final Questions

- **BIS urgently needs to work with stakeholders to develop a framework that can be used to guide HEIs in terms of what they should be monitoring and how they can evaluate the effectiveness of the support they are offering. Talking and engaging with disabled students will be critical to this process.**
- **There needs to be clearer information around how long it will take to consider and approve interim DSA funding under the Exceptional Case Process and how support will be in place from the very start of the course. There also needs to be clearer information around what would constitute as exceptional cases for DSA funding.**
- **BIS must ensure students have a means of redress, either through the Exceptional Case Process, or through other means, if they have disputes**

around the quality of the support they are receiving and the time in which support is delivered.

- **BIS should produce guidelines on the internal appeals/ redress procedures that should be place within HEIs in order to minimise poor responses by institutions and ensure there is a level of consistency in how appeals are dealt with.**
- **Adequate means of appeal and address must be quick, involves as little bureaucracy as possible, and the student must be able to access a decent quality of information, advice and advocacy.**
- **We are particularly concerned that students will not have access to advice and advocacy from the institution given the conflict of interest if the student is in conflict with their provider. We strongly recommend that these proposals are delayed until the sector can agree a means to provide this advice and advocacy.**
- **We would like the Equality Analysis to look at the impact of the £200 contribution fee for IT equipment and the impact of changing the definition of disability to be in line with the definition of disability under the Equality Act 2010.**

General principles on the provision of DSA

NUS believes any DSA system should be based upon the social model of disability where learning environments are inclusive and accessible to disabled students in higher education from the outset. However, we are aware that any move towards more inclusive education will take time and the development of a shared understanding around what accessible and inclusive education means in practice. With this in mind, any changes to DSA must to be thoroughly considered and involve disabled students - not rushed through simply to save money. In Scotland, for instance, no reforms were implemented precisely because there was a lack of consensus on what reform would look like and whether it would have a positive impact on disabled students².

Notwithstanding the basic principle of inclusive education, we believe DSA is a vital means to ensure disabled students have access to and do well within higher education. It is not a perfect system and we outline within this consultation areas in which we think need to be improved and which the Government should consider in any reforms taken forward. Any reforms made must ensure improvements to the support disabled students receive. In particular we would stress that support needs to meet our five principles:

1. The support must be high quality;
2. The support must be timely;
3. The support must be individualised;
4. The support must be consistent across different types of institutions, main and satellite campuses, different faculties or different levels and modes of study (allowing for individual needs); and

² The Scottish Government (2013) [Consultation on Disabled Students Allowance](#)

5. The student must have access to appropriate and speedy mechanisms for appeal and redress.

High Quality

Any system of support in place needs to ensure the highest quality support for students. This applies to all disability support but we have particular concerns around the quality of non-medical help (NMH). As things stand, it has very limited quality assurance mechanisms. Some roles, such as sign-language interpretation, require certain externally-accredited qualifications, but in many cases it is impossible to verify the training or experience of those involved in providing NMH support. We give further detail in response to Question 4 below.

Timely

Any delivery model must ensure that support for students is provided at the point that it is required. Again, the current model is not perfect in this respect; the lack of online application facilities and the inherent time involved in conducting the assessment process can mean support not being in place at the start of the course, especially if the student applies through Clearing.

This stated, there have been significant improvements over more than a decade in this respect, both as timescales have been tightened by those involved in setting quality standards such as DSA-QAG, and as a result of the efficiencies gained through the centralisation of processing at Student Finance England (SFE).

Any new system proposed must seek to improve on how support is provided in a timely way and students have a means of redress if there are unreasonable and significant delays to receiving support. Any reforms must not jeopardise the many welcome improvements in timescales in the delivery of DSA over the last decade.

Individualised

As the HEFCE work on SpLD support made clear, the students involved in the study "...placed a high value on one-to-one support for SpLD."³ In the experience of the NUS Disabled Students' Campaign this is generally true of all disabled students.

The DSA model must ensure at all times the disabled student is treated as an individual, in line with the social model of disability. In the past for example, we have opposed, the idea of 'standard packages' of support for certain categories of disabled student, and supported the Department's work on quality assurance of the content of needs assessments as a way of preventing the homogenisation of assessment reports.

We support the idea of making education inclusive by design. However, even if this can suggest there are appropriate means to reduce the level of individual support whilst still meeting the needs of the disabled students concerned, it will be crucial to get the balance right and the principle of access must always come before the need to reduce

³ HEFCE (2015a) [Support for higher education students with Specific Learning Difficulties](#) pv

costs. We do not want to see institutions adopting a battery hen approach, with too many students being supported by two few individuals.

As stated above, what counts as 'innovative practice' or 'inclusive education' is not fully understood or agreed, and at the minimum needs to involve significant and sustained engagement with disabled students. It cannot be a rushed through in piecemeal fashion as a response to the funding constraints these changes create, because disabled students will only lose out.

Consistent

At present, the DSA works in a similar fashion to the tuition fee loan: assuming they meet the personal eligibility criteria, a student is entitled to it regardless of the institution attended. Similarly, assuming the student is eligible, the DSA works to ensure funding is drawn down at a national level to support the student as required. This approach enables students to have access to a consistent level of support no matter where or what they choose to study and that institutions who admit large proportions of disabled students are not unfairly penalized.

We are concerned that the approach suggested by government means the student is more vulnerable to inconsistencies in approach across the sector, and even within institutions. In particular, the variable expertise between and potentially across institutions will exacerbate inconsistency in support. It can be assumed that larger, better resourced providers will have disability support offices with well qualified staff, but this may not be guaranteed at small and specialist institutions or alternative providers, nor at satellite campuses. This will have significant practical challenges: for example, to what extent can the nature of reasonable adjustment change across different courses, departments, faculties, or campuses within an institution, let alone between institutions? Such inconsistencies no doubt exist at present, and will increase if further alternative provision is created as the Department hopes.

Appropriate and speedy mechanisms for appeal and redress

Currently most disabled students who have disputes around DSA can rely on the support of their provider's disability office in resolving disputes with Student Finance England. If the new system is to work, and place access at its heart, then the student must be able to challenge their provider where they have the responsibility for providing support. Adequate means of appeal and redress must be quick, they must involve as little bureaucracy as possible, and the student must be able to access a decent quality of advice and advocacy.

Appeal and redress must be quick because delays to the provision of support, or of the right support, will have clear impacts on the disabled students' chances of success on their course. We recognise that some work has been undertaken to address this point: the Exceptional Case Process is a mechanism to ensure the student is not caught in the middle of any dispute over whether the DSA or a provider should pay for the recommended support, and to ensure support is provided whilst the dispute is resolved. However, there will be various other points at which the student may need to challenge their provider where their responsibility to provide support is not in dispute – on the quality of the support, its quantity, its timeliness and so on.

Any such system has to involve as little bureaucracy for the student as possible. Disabled students already have much more paperwork to contend with than non-disabled students, whether as part of their course or because of benefit applications and so on. For some, the very nature of their disability may make paperwork of any sort all the more challenging. Significant amounts of paperwork also add to the time taken to complete any process. We cannot allow bureaucracy to deter students from raising their concerns.

Lastly, advice and advocacy will be crucial. However, there is a clear conflict of interest if the dispute is with the provider, and all the more as it may well be with the disability office themselves. Needs assessors will obviously provide crucial documentation for the student, but could not be a suitable advocate for them. Students' unions may be able to provide help but many will not have the internal expertise, and again in the small and specialist providers, FE colleges and alternative providers, the chances that the SU does not have any full-time staff, let alone a paid adviser are often very low. As such the system may place students in a vulnerable position and unable to effectively challenge the provider's decision.

The most obvious example of this vulnerability is the emphasis being placed on a provider's duty to provide 'reasonable adjustments'. How can a student be sure of the support they receive is 'reasonable'? In purely legal terms this is something only the courts can decide, but it would be absurd to expect students to go to the courts to determine if their support was reasonable, and it can be argued neither the Department nor providers have a clear idea of what is reasonable now. Even if the Office of the Independent Adjudicator were involved the process can be lengthy and the internal complaints process should be used first. However, if that internal process is opaque, bureaucratic and the student cannot access advice, even with a needs assessment report may will struggle to challenge any deficiencies in the provider's approach.

In an ideal world, all SUs would have an adviser available, but many will not do so. We are therefore unconvinced the new system offers the student the protections they require. NUS therefore strongly recommends that the proposals be delayed until the sector can agree a means to provide this advice and advocacy, and guidelines on appeals and redress are developed. Disabled students must be involved in the development of this work at all stages.

General

In addition to our five principles, we want to make some other general points: first, we would repeat that it is essential that all aspects of any changes are properly monitored and evaluated, and where necessary changes are made to protect students. We expand on this in our answer to question 22. Second, information, advice and guidance on all aspects of any changes will also be crucial, to ensure students are aware of what they can expect and how to challenge providers or Student Finance England. Third, providers need to involve their disabled students in the development of any new support structures.

Finally, we remained concerned about the overall approach to these proposed reforms. NUS understands that it is imperative for the support for disabled students to be delivered in an efficient manner – but this is because that will mean more resources available for others to get support, such as international students or those with high

support needs. However, it is difficult to escape the conclusion that the desire to reduce expenditure on DSAs and disabled students and push responsibility for the cost of provision elsewhere - is at the heart of these reforms. We have significant concerns that such cuts will not ensure all of our five principles are met and that in practice it will undermine the stated aim of the consultation to improve disabled students access to HE, as some institutions will not have the financial resources to adapt to these reforms.

We are already aware that institutions are concerned that, with increased levels of demand for support service and a rise in the number of UK full time undergraduate students known to have a disability and in receipt of DSAs, central funds may not be sufficient to meet all needs⁴. HEFCE'S recent research also showed that in most institutions, DSA-funded support is estimated to account for over half of total SpLD support and that the SpLD funding model is significantly dependent on DSA⁵. Students unable or unwilling to claim DSA (including international students), in most institutions, receive a significantly lower level of support. Similarly, one of the main funding sources for student with mental health problems and/ or intensive support needs were DSA⁶.

We are also concerned that HEIs are unlikely to be in a position to know the range of support that disabled students require until a few weeks before the academic year begins. As noted above, support for disabled students could be a particularly difficult for small and specialised colleges and institutions delivering higher education, or for those institutions with high proportions of disabled students.

In the current system, the DSA model acts to reduce inconsistencies in the level of disability support available between institutions, most especially by ensuring that an institution is not financially penalised by admitting large proportions of disabled students. We are deeply concerned that changing the system will create perverse incentives for institutions to reduce their intake of disabled students. We do not believe any would do so overtly, for the obvious legal and reputational problems that would bring. However, as the HEFCE research on SpLD students noted, the students they interviewed were, 'concerned that institutions would view SpLD students as a burden, and no longer see providing strong SpLD support as a priority⁷.'

We would see this as applying to other categories of disabled student, and mean less emphasis placed on proactive recruitment. Any reform to DSAs provision must address this issue. For example, we recommend that money should be redistributed from central funding pots to those providers with the greatest need to help them meet the financial costs of supporting disabled students. Providers will also need clear guidance about reasonable adjustments and the extent to which they can vary to ensure that the level of

⁴ UCAS reports a 37% increase in the number of UK accepted applicants declaring a disability between 2010/11 and 2014/15. See End of Cycle 2014 Data Resources. 2014. UCAS https://www.ucas.com/sites/default/files/eoc_data_resource_2014-dr2_025_05_0.pdf Hefce (2015a) research shows that HEIs already need to draw on central funding as the DSA and SO disability allocation does not cover the full direct costs of providing support. Indications were that for every £1 received in the SO disability allocation, institutions needed to top this up by between £2 and £5.

⁵ Hefce (2015a) [Support for higher education students with Specific Learning Difficulties](#)

⁶ Hefce (2015b) [Understanding provision for students with mental health problems and intensive support needs](#)

⁷ Hefce (2015a)

consistency across institutions is maintained. We address these points in more detail below.

Section 1: Background information on DSAs policy

Q1: Do you think a minimum level of reasonable adjustments for all HE providers could help ensure a consistent approach to making reasonable adjustments? If yes, what areas do you think should be covered? Please state what you think the minimum level for each area should be.

We agree that a minimum level of reasonable adjustments for HE providers should be required in order to ensure consistency in disability support between higher education institutions and to ensure consistency in provision within their campuses.

At the very minimum, all institutions should be making reasonable adjustments to ensure they are providing accessible curricula and teaching and learning practices for disabled students. For example, providing lecture capture, audio recordings and annotated slides. Measures such as an allowances for photocopying and supporting students who need help with things such as carrying books between lectures should be 'reasonable' to implement for all institutions because they are relatively low cost. Other adjustments that need to be made beyond the lecture theatre- such as making fieldwork and educational activities accessible - may be more difficult to implement for students without the support of DSA. Any reasonable adjustments implemented need to be quality assured and carefully monitored to ensure support is adequate.

However, even if there is a minimum level of reasonable adjustments institutions are required to implement, we are concerned that there will be differences in the level of support based on the basic principle that what is 'reasonable' to implement will vary according to the size of the provider and the resources available. Smaller institutions or institutions with high proportions of disabled students described above, will most likely need additional financial support in order to ensure there aren't gaps in provision and support isn't widely different depending on the type of institution. We are also concerned that if there is a minimum level of reasonable adjustments outlined, this will encourage institutions to do the bare minimum rather than aiming for more ambitious programmes of work around inclusive education. This is something BIS should monitor.

Additionally, we are concerned that there still isn't a very good understanding amongst university staff around what is meant by reasonable adjustments. For instance, the HEFCE research showed that although there was general awareness of the legal requirement to make reasonable adjustments, academic tutors were either unclear about or surprised at the nature of changes that they might need to make for students with a mental health problem or those who may have a complex disability. The report suggests that institutions need to dedicate particular attention to how they can implement reasonable adjustments for students with mental health problem as 'in comparison with

other groups of students who fall under disability legislation, little has been written about the challenges of providing these⁸.'

These issues highlight that whatever system is brought into place there needs to be effective communication not just with disability support staff but with wider staff groups, including academic staff, to ensure they are providing the necessary support. Guidance around what reasonable adjustments institutions are expected to provide should not only include examples of good practice but outcomes institutions should be expected to achieve to encourage innovation.

Q2: Do you think there are other mechanisms that could be introduced to achieve a consistency of reasonable adjustments for disabled students across all HE providers? If yes, please describe them.

We believe it is critical for BIS to identify institutions that may face financial difficulties in meeting our five criteria to support disabled students.

BIS needs to guarantee not only that the HEFCE budget for disability is protected but that it is increased with a specific remit of supporting those HE providers with a high proportion of disabled students. We would also recommend that there is some sort of additional fund for providers to access if they struggle over the year. Both these measures would ensure support for disabled students remains consistent across providers and disabled students are not disadvantaged.

Q3: Do you have any examples of how it might prove difficult for an HE provider to make reasonable adjustments because of the nature of their student population (e.g. if the HE provider has a very large or small student cohort)? If you have, please explain why this could be difficult.

As above, we believe smaller and specialized institutions or institutions with a higher proportion of disabled students will find it harder to make reasonable adjustments because they have limited resources, higher demands for disability support, or both.

While we agree with the consultation's aim to ensure the learning environment is accessible for all disabled students, not just those in receipt of DSAs, and HEIs should be anticipating the needs of their entire disabled student cohort, recent HESA data shows that there is a considerable variation in the overall number of disabled students per institution. In 2013/14 10% of the overall student population in HE were *known* to have a disclosed disability. However, at some institutions the proportion of their overall student cohort known to be disabled was significantly less than the overall average (as low as 5%) whilst at other institutions the percentage could be as high as 34%. In many instances, smaller and specialized colleges also have a higher proportion of disabled students. For instance, Leeds College of Art (28%), Falmouth University (34%) and University for the Creative Arts (24%)⁹.

⁸ Hefce, 2015b

⁹ Please see the Higher Education Information Database for Institutions (HEIDI)

The data also shows the actual percentage of HE students who receive DSA also varies considerably by institution– from around 2.5% to 31%¹⁰. These statistics show the cost-impact will be much greater for some institutions to provide disability support than for others.

Section 2: Non-medical help

Q4: Do you think the Government’s preferred option for non-medical help changes fulfils the policy rationale of making HE as accessible as possible, re-balancing support between HEIs and DSAs, and improving value for money? If no, please give details of your reasons.

As we state above, we are not opposed to reforms of the DSA as long as reforms demonstrate improvements on the present arrangements, and we have developed our five principles in order to analyse the impact of the proposed reforms and the alternatives the Department has considered. These principles have been outlined to the Department on a number of previous occasions and we acknowledge the work that has been done to respond to our concerns. However, as matters stand the proposals still create a number of potential problems for disabled students, whilst other issues we deal with in this section need to be addressed, regardless of the specific delivery model in place.

High quality

We do not believe the current system of non-medical help (NMH) provides the highest quality support to students. As things stand, it has very limited quality assurance mechanisms. Some roles, such as sign-language interpretation, require certain externally-accredited qualifications, but in many cases it is impossible to verify the training or experience of those involved in providing NMH support.

The lack of a common approach across HE providers does not make this task any easier. Although up until recently, most HE providers were generally able to control which NMH provider operated on their campuses, this did not mean support was always provided in-house. In many institutions NMH was outsourced by the HE provider to companies such as Randstad and Clear Links. There has been little attempt by the sector to develop any common standards and still less any mechanism to evaluate them.

With such inconsistency in provision, and lack of any framework to assess quality, it is therefore unsurprising that NUS receives frequent reports of poor quality NMH provision. For this reason we welcome indications from our discussions with the Department that this is an area it would like to explore further how to assure the quality of NMH provision, although it is disappointing this topic was not explicitly addressed in the consultation to allow stakeholder input to be collected.

However, the proposed system outlined in this consultation does not, in itself, mean that the quality of NMH provision will improve, and introducing a quality assurance mechanism does not necessarily depend on change in the delivery model. Indeed, the department’s proposals bring the risk that quality will decrease, if so much cash resource

¹⁰ Ibid.

is taken out of the DSA, and HE providers look to reduce their cost burden on the support they become responsible for by using cheaper alternatives.

In addition, if still more providers are brought into the system by the enforcement on the 'two quotes' rule on DSA support this could make it more difficult to maintain quality if providers simply seek to reduce their charges to remain competitive. We are especially concerned that in both instances there will be an undue downward pressure on wages, whether in-house or outsourced. We do not believe poorly-paid and possibly poorly-trained staff will deliver the level of quality students should expect.

This in turn highlights a further issue: for many disabled students, there is not a clear indication of what they are entitled to expect from NMH in terms of quality. The reference manual is not a document many will have read, even if they know of its existence. Therefore any system which is, in effect, placing a further burden on the student to raise issues with quality will need to ensure there is adequate, accessible and digestible information, advice and guidance for students so they are empowered to challenge any poor quality support. There is a further risk that the Department's desire to see innovative practice and a more inclusive education model, whilst a very laudable aim, inevitably means some element of trial and error. If funding cuts mean that new models of delivery are rushed there is a significant risk that the students involved will have a worse experience as a result.

NUS therefore recommends that the system should not be changed until a quality assurance mechanism is in place for NMH, standards are agreed which protect working conditions for those employed to deliver the support, time is taken to test innovative approaches and correct their deficiencies, and work is undertaken to ensure students are aware of the level of quality they are entitled to expect – and what to do if this is not in place. If the system is changed, the savings generated should first be redistributed to institutions as necessary, especially those with limited resource and/or high proportions of disabled students, to ensure that quality and access is maintained.

Timely

The proposed model does not in itself mean support can be provided more quickly in the first instance as it continues, rightly in our view, to involve an individual assessment. There has been proposals to create a form of fast-track assessments for certain categories of disabled student, including those with SpLDs and mental health conditions; we think some of these proposals have the potential to be beneficial and we would want to explore these further.

We also think that moving to a system where the majority of NMH is provided by HEIs may have benefits in terms of timeliness, if for example it allows adjustments to the support to be made more quickly as the course progresses and the nuances of a student's needs become more apparent. This would still need to be monitored as we are concerned that bottlenecks may occur at the beginning of the academic year with the student being more reliant on the institution putting the support in place.

The Department has already attempted to address any potential issues in the timing of support where there is a dispute between SFE and the provider as to whether the support should be paid by the DSA or not. We believe the Exceptional Case Process (ECP) developed by the Department is a positive response to these concerns and the proposed ECP is broadly useful – but this intervention deals only with disputes not delays

in provision, and it is less clear how a student can challenge such delays where the HE provider is not otherwise disputing their responsibility. This will clearly link to the need for an efficient means of appeal and redress (see below).

NUS recommends that no change be put in place until it is clear how a student can challenge delays in the provision of support, and rigorous monitoring and evaluation must be undertaken to ensure that standards do not slip as a result of the reforms.

Individualised

If at the moment there is no suggestion to change the principle of individual assessment, the proposed NMH changes, and the Department's rhetoric about 'innovative practice' and 'inclusive education' infers some diminution of individualised support for students from institutions.

For example, 'innovative practice' or an 'inclusive' delivery model might mean one scribe being employed to take notes for a whole class. If the format and style of the note taking meets the *range* of needs that disabled students in that class have, this may be one method to make learning more inclusive. In other instances, such as campus guides or intensive study skills support, any move away from individual support would be highly problematic.

NUS recommends that the changes are delayed until further work has been undertaken to outline what innovative practice and inclusive education might mean from the point of view of NMH and individual support. This work must involve disabled students. We also recommend guidance is developed for the sector that makes clear when individual support is essential, and the monitoring and evaluation programme assesses the extent to which student-support staff ratios change when any reforms are brought in and why.

Funding and resources

Delivering NMH through institutions could be a more helpful approach and the experience in Scotland suggests that students who have access to non-medical personal help provided by their institution were generally satisfied and found the process works well (the satisfaction for personal help provided by a private company was significantly less)¹¹. However, in that system adequate funding is provided. An approach which simply siphons off DSA funding to pay for other government priorities such as a cut in Corporation Tax is not only fundamentally wrong, it will serve only to reduce disabled students' success. A warning sign about the potential direction of travel is outlined in the HEFCE research on SpLD students:

"All institutions provide some form of support for SpLD students who do not claim or are ineligible for DSA support. However, this tends to be less comprehensive than the DSA package."¹²

It would be scandalous if the changes resulted in a 'less comprehensive' package of support for students in receipt of DSA, when we should instead be focusing efforts on

¹¹ Please see the Student Awards Agency for Scotland (SAAS), Disabled Students' Allowances (DSA) Customer Survey 2012.

¹² HEFCE (2015a) [Support for higher education students with Specific Learning Difficulties](#) piii

ensuring those who do not or cannot claim DSA is as comprehensive as support for those who receive DSA now.

Q5: Do you think any of the alternative options in paragraph 58 for non-medical help provision could deliver the support required and meet the need to make HE as accessible as possible, re-balance support between HEIs and DSAs, and improve value for money? If yes which one(s)? Please give details, explaining how the proposal takes account of the legal duty imposed on HE providers.

The Department has made it difficult to evaluate these potential models, by giving limited information as to what exactly the Department considered and why they were rejected. We believe that more details should be made to enable considered deliberation.

a. No Change to the Current Arrangements.

As outlined above, we would want to see some changes to DSA as matters stands, and some of what is suggested has possible benefits. It is certainly the case that providers can become more inclusive, and innovation in education that achieves this is to be encouraged. There are issues with the quality of NMH provision which need to be addressed, though as we have stated, delegating responsibility to providers does mean an automatic improvement to quality. We would also like to see further support for international students who don't have access to DSA and believe support could be greatly improved for both post-graduate and part-time students. All aspects of support for disabled students should be subject to comprehensive monitoring and evaluation.

However, changes need to be right and they should not be rushed. We believe it is worth delaying some aspects of any reforms to ensure they are fully developed, and may need to be tested with some pilot institutions before being rolled out across all providers.

b. Transfer Responsibility for all NMH Provision to HE Providers

In effect, this is a move towards the way NMH is provided within some institutions in Scotland, but we would not support it in this instance primarily as the inference would be transferring all responsibility but none of the financial resource (unlike in Scotland, where institutions continue to get funding from SAAS for much of the NMH they provide). In any case, it would further exacerbate the problem of differing levels of expertise and further penalise those better at recruiting disabled students.

c. HE Providers fund limited NMH with DSAs top up

We believe this approach could have some benefits and may help to address some of the potential problems for those providers who have higher proportions of disabled students and/or lower resources. For example, a banding system could be put in place so that the largest and wealthiest institutions take on a greater share of the cost of NMH provision than the smallest and poorest providers.

There would remain some issues to be addressed, not least improving NMH quality, and it may be even more complex to resolve disputes, but we would welcome further discussion with the Department on this alternative.

d. Disability Officers at HE Providers determine if support should come from the HE provider or through DSAs.

This model has some potential benefits; it could mean lower costs as the number of external needs assessments would be reduced, and may mean for a quicker process. However, we remain committed to the principle of individualised assessments and we could not countenance a system which meant students were not able to access this individual support. There are also some apparent problems with this approach even if individual assessments are continued – the capacity and expertise of disability officers in all types of institution to undertake this work, and the ability to manage the conflict of interest inherent in the suggestion that they would determine whether their institution or SFE pays for support.

Q6: Do you have an alternative proposal for non-medical help provision? If yes please give details, explaining how your proposal takes account of the legal duty imposed on HE providers, and meets the policy rationale (i.e. the need to make HE as accessible as possible, balance support between HEIs and DSAs, and improve value for money)

Please see above. We believe there could be some benefits to option C and would welcome the chance to discuss this proposal in more depth, including how a banding system might be developed.

Q7: In NMH Band One categories a - e and g on pages 18-20 are there any circumstances where the primary responsibility for provision should not sit with the HE provider? If yes, please give full details and explain your reasoning.

We will answer questions 7-12 as one. Our view on the different roles and bands is that if the system in place can meet our five principles then it becomes easier to identify when specific roles are funded by the DSA or the provider – in other words, we cannot identify specific circumstances that the rules proposed here should change without being sure of how the system works to ensure quality, timeliness and so on.

However, we would return to the concerns about resource and expertise within some smaller providers. Other things being equal, it may be appropriate for DSA to provide some support where the provider would lack resource or the expertise to do so. We recommend the Department consider a hardship exception for all roles that would be provided primarily by the provider.

Q8: In NMH Band One category f on page 19 are there any circumstances where the primary responsibility for provision should move to the HE provider? If yes, please give full details, and explain your reasoning.

See above.

Q9: In NMH Band Two categories a – c on pages 20-21 are there any circumstances where the primary responsibility for provision should not sit with the HE provider? If yes, please give full details and explain your reasoning.

See above.

Q10: In NMH Band Three category c on page 22 are there any circumstances where the primary responsibility for provision should not sit with the HE provider? If yes, please give full details and explain your reasoning.

See above.

Q12: In NMH Band Four categories a - e on pages 24-25 are there any circumstances where the primary responsibility for provision should move to the HE provider? If yes, please give full details and explain your reasoning.

See above.

Q13: Do you have detailed edits or comments on the draft NMH guidance? These can be provided online on the Citizenspace form, by email to DSAconsultation@bis.gsi.gov.uk, or by hard copy to the address given in paragraph 20.

We have previously provided comments on the draft guidance via the policy and stakeholder forums on which NUS is represented.

Section 3: Accommodation, peripherals and consumables

Q14: Where accommodation is owned and managed by the institution or its agent, do you agree that the additional costs of providing specialist accommodation for disabled students should not be passed on to the student? If not, please explain your reasons?

We agree that this is the correct approach and institutions should absorb these costs. We are however, concerned that the cost will instead be passed on to other students via rent increases, and institutions should not operate in this fashion. We recommend the Department includes accommodation in their monitoring and evaluation work in order to gauge what impact this change has on other rents.

In addition, NUS believes the specific situation of providing additional rooms for overnight carers should be clarified in guidance, as we have heard many stories of students being charged for this additional room. We do not believe the disabled student should be charged where overnight care is a necessity.

Q15: What other approach would you favour for funding specialist accommodation? Please explain why.

N/A

Q16: Do you agree that the primary source of hard copy materials should be through an institution's library services to remove the need for individual printers, scanners and hard copy materials? If not, why? What alternatives do you suggest?

We do not see a general problem in this approach and this is a sensible way of making education more inclusive. However, there may be many reasons why a student may still need to be provided with printers and scanners. For example, a disabled student studying history may need to make use of external archives, or a student whose course involves placements may need to be able to scan in documentation while away from the institution itself. Therefore the needs assessment should ensure a recommendation for this equipment where the course structure means the student may need to use materials the library cannot provide.

Q17: Do you agree with this approach to the funding of standard computer peripherals? If not, why? What alternatives do you suggest?

If the net result of refusing to fund standard computer peripherals is that the student is unable to make use of the assistive technology on the computer, it would seem to be defeating the very point of recommending it. Therefore we would argue that peripherals should be provided when they enable the student to access the technology and learning strategies that they require for education to be accessible. As with our arguments in relation the £200 contribution, it cannot be guaranteed the student is able to afford such items if they are not provided via the DSA.

Q18: Do you agree with this approach to funding items referred to as 'the bundle'? If not, why? What alternatives do you suggest?

Again, if the net result of not providing bundle items is the student's equipment becomes less useful, or by not providing a laptop bag, the items become more prone to damage, it undermines the usefulness of providing the equipment. Therefore we would argue that bundle items should be provided when they enable the student to access the technology and learning strategies that they require for education to be accessible. Once again, it cannot be guaranteed the student is able to afford such items if they are not provided via the DSA.

Q19: Do you agree with this approach to funding audio capture equipment? If not, why? What alternatives do you suggest?

We do not see a general problem in this approach and as with hard copy materials this is a sensible way of making education more inclusive. Once again however, there could be many reasons this technology is required outside of the lecture theatre – group work sessions, conducting interviews as part of qualitative research, placements and so on. Therefore once again, the needs assessment should ensure a recommendation for this equipment where the course structure means the student may need to use audio capture technology outside of the lecture theatre.

Q20: Are there circumstances where the primary responsibility for providing an individual item of IT related equipment, for example a printer, scanner, DVR etc. should fall to a student's HE provider? If yes, which items of equipment would fall into this category? If yes or no, please give reasons for your answer.

We do not see any need for the system to be complicated by providing a further list of exceptions here.

Section 4: Summary and Final Questions

Q21: We have described how we think HE providers can best fulfil their obligation to supply reasonable adjustments for disabled students. Are there other ways in which they could do so? If yes, please describe them.

We have outlined how we think the current DSA system could be improved and measures to ensure the reasonable adjustments provided by institutions is consistent, high quality and timely.

Q22: How should any changes introduced be monitored and evaluated to ensure students are receiving a consistent service and are not being disadvantaged?

We are disappointed that the Government has not proposed a comprehensive approach to monitoring and evaluating the proposed changes to DSAs, either in this consultation or previously. BIS urgently needs to work with stakeholders to develop a framework that can be used to guide HEIs in terms of what they should be monitoring and how they should be evaluating the effectiveness of the support they are offering. Clear outcomes for disabled students need to be established both to ensure reforms are not having a negative impact and to encourage innovation. Talking and engaging with disabled students will be critical to the development of any framework.

In terms of monitoring, at the very minimum, institutions need to look at their intake of disabled students once the reforms have come into place to ensure numbers are not reducing (particularly as these proposals, as they stand, may create perverse incentives in relation to the recruitment of disabled students). It will also be important for institutions to look at the retention rates and academic achievements of disabled students in receipt and not in receipt of DSAs to ensure the reforms are not having a negative impact on disabled students' attainment levels. This is not an exhaustive list and we welcome opportunities to discuss this topic further.

In addition to issues around what information institutions should be monitoring, we have considerable concerns around how changes to support will be evaluated in terms of their effectiveness. We are aware that currently there is wide variation in the ways in which institutions are doing this. For instance, the HEFCE report,¹³ noted that effectiveness of support services tended to be based on anecdotal evidence (based on student feedback captured via various means), and there was little clear evidence of systematic evaluation or monitoring. Some institutions were using the Clinical Outcomes Routine Evaluation (CORE) approach to measure the effectiveness of services such as counselling

¹³ HEFCE (2015a); HEFCE (2015b)

interventions, while others looked at differential outcomes of disabled and non-disabled students such as achieved grades, National Satisfaction Survey scores, retention, appeals and complaints, and graduate destinations.

Given the scale of the proposed reforms and the considerable responsibility being placed on HEIs to deliver support to disabled students, it is not acceptable that there is such variation in how institutions are monitoring and evaluating the services they deliver. Again, we recommend that a framework is developed by BIS on how institutions can monitor and evaluate the support services they deliver.

Additional safeguards

Q23: Are there any additional safeguards for students that should be considered to ensure that they receive the support necessary? If yes, please state what you think they should be.

Having a robust appeals and redress system in place will be an important additional safeguard for students to ensure they receive the necessary support. We welcome the outlined Exceptional Case Process to protect the interests of students who are in dispute with their HE providers around the provision of a reasonable adjustment as we feel this is one means to ensure disabled students do not face unfair disadvantage. However, there needs to be clearer information around how long it will take to consider and approve interim DSA funding while the student is in dispute with their institution. If the student is not to be disadvantaged, all the necessary support must be in place from the very start of the course. There also needs to be clearer information around what would constitute as exceptional cases for DSA funding (this will hopefully be clarified when the 'reasonable adjustments' universities are expected to provide is better outlined). There also needs to be a process in place, either through the Exceptional Case Process or through other means, for students who are in dispute with their provider over the quality of support they have received and/or the length of time they have had to wait in order to access support from their institution.

With regards to the appeals process itself, HEIs need to ensure that:

- The process is well publicised across the university so that students are aware there are means of redress if they are not satisfied with the quality or timeliness of support they are receiving;
- Students understand that any appeal taken will not affect their relationship with the university/staff members and their ongoing studies.
- The process is simple, accessible and easily understandable to students and staff;
- There are clear time limits in terms of when the appeal will be addressed and resolved and when the student can expect to get interim DSA funding;
- There is appropriate support available for students in order to take an appeal forward.

For the latter point we are concerned that there is a conflict of interest. For example, students may be less likely to get support from the HEI disability office to file a complaint when the appeal is against their institution rather than the SLC. SUs may

neither have the staff capacity of expertise to support students. Nevertheless, we maintain that there needs to be a level of support available and this needs to be established by the Department before these reforms comes into place.

We recommend the Government produce guidelines on the internal appeal/ redress procedures that should be place within HEIs in order to minimise poor responses by institutions and to help ensure there is a level of consistency in how appeals are dealt with.

Q24: Some students may not be able to identify their final choice of HE provider until the clearing process. Do you think that any specific arrangements need to be put in place as part of clearing? If yes, what are they and why do you think they should be put in place?

No comment.

Q25: Do you have any relevant additional information that you would like to be considered as part of the ongoing Equality Analysis? If yes, please provide this.

Please see our introduction to this consultation. We would like the Equality Analysis to include looking at policies which have already been introduced; namely the £200 contribution fee to IT equipment and the impact of changing the definition of disability to be in line with the definition of disability under the Equality Act 2010.

Since the majority of undergraduate disabled students entering higher education are those with specific learning difficulties, we would also highlight any reform which has a negative impact on the support available will have a disproportionate impact on this group.