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Petitions Committee

Oral evidence: A statutory duty of care for higher education students, HC 1343

Tuesday 16 May 2023

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Members present: Catherine McKinnell (Chair); Tonia Antoniazzi; Marsha De Cordova; Nick Fletcher.

Education Committee Member present: Robin Walker.

Health and Social Care Committee Member present: Paul Blomfield.

Questions 19 - 26

Witnesses

Jill Stevenson, Chair, AMOSSHE; and Professor Steve West CBE, President, Universities UK.



Examination of witnesses

Witnesses: Jill Stevenson and Professor Steve West.

Q19 **Chair:** We have Jill, who is here in person, and we have Professor Steve West, who is here virtually. Just to warm up your voices, would you like to briefly introduce yourselves and say where you have come from, please, starting with Jill?

Jill Stevenson: Thank you for having me. I am Jill Stevenson. I am the Chair of AMOSSHE, which is a student services organisation. I work at the University of Stirling as Director of Student Services there, but I am here today as Chair of AMOSSHE.

Professor West: Steve West, I am Vice-Chancellor at the University of the West of England in Bristol. I am also currently President of Universities UK. I have chaired the mental health in higher education advisory group, which is a network across the sector and agencies, including the Department of Health and Social Care, and bereaved families. I have been doing that for about eight years now.

Q20 **Nick Fletcher:** Thank you for coming to this session today. We finished the last session by saying that there was some good work going off in universities, so I want to start this session by giving you the opportunity to say what you think your responsibilities are and what you are currently doing. If we start with you, Jill, we will then go over to Steve.

Jill Stevenson: Thank you. The primary responsibility of universities is to provide education and learning to our students, and to provide a living and learning environment that is conducive to that. It is also to conduct research and enable innovation and knowledge exchange. It is to create that environment that allows that to happen.

I think for universities it is about putting the resources into the frameworks that can support those things happening. From some of the examples that we are taking already, many universities are obviously implementing the guidance that has been cited several times today. There is guidance, which has been produced by Universities UK and PAPYRUS in partnership with AMOSSHE and the sector, on sharing information with trusted contacts, preventing suicide and the postvention work.

One point I want to stress is that some of that guidance was only published last year. We need the opportunity to implement that. There has been a lot of discussion about numbers. AMOSSHE has recently, with UUK, asked our members, "Are you implementing that? Is it being implemented or are there plans to do that?" The vast majority of respondents are saying, "Yes, we are doing that". Putting that guidance into place is one of the things.

Over and above that, many universities already have mental health strategies and agreements with students in place. What is important



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about that is that we take whole institution approaches. It is not just about student services, which is the AMOSSHE remit, but these strategies will typically look at wellbeing initiatives, prevention, community building, referral pathways and then on to the acute end in terms of what we would do to support that. Often these strategies are developed in partnership with our students as well, so the student agency is there. In terms of accountability, university courts or governing bodies would be the ones that would approve those strategies.

There has been significant investment across the sector in support for students who need that when they are struggling. You can ask any university, and I think the vast majority of them will tell you about the investment they have had to make in counselling but, latterly, mental health provision. That is more clinical support in mental health: nurses, for example, and psychologists. I think, as has already been cited today, this is because of the gaps in the NHS and the gaps in funding that are there. Universities absolutely have invested and put that money in there.

We were talking about the legislation and we have talked about the debate over whether there is a general duty of care, but there are other pieces of legislation there, which we very much comply with. The Equality Act, for example, which requires universities to put adjustments in place—both anticipatory and reasonable adjustments—in response to students who have disabilities, including mental health conditions. There is a significant framework of support that already exists there. That is, again, not just with student services but with academic colleagues as well. I will stop there, but if you want any more, please do ask.

Professor West: Can I start by again thanking the parents and bereaved families who have the courage to stand up? I have worked with many of the families, and I have worked with families and parents over many years to try to ensure that we learn and work together. My condolences to them all, but also my thanks for being brave and courageous and being able to stand up and share their stories with us, because that is how we work and learn.

Ten years ago, this was not something that was spoken about at all. Mental health and wellbeing was not something on the radar in universities. That is a very important thing to say because, over the last eight years, we have focused, we have made improvements and we are changing many lives across the spectrum of mental health and wellbeing.

Universities have stepped up, but I would be the first to absolutely acknowledge that we need to go further faster, and we need to ensure that everyone in our university sector is engaging with the best practice and we are learning together. I think there are many elements within the LEARN Network that we would absolutely support and want to engage around.

Our job is to create safe, inclusive and healthy settings for students and staff, and to share information in a way that ensures that we keep



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students at the centre of our decisions, and make sure that we care about them and we care about their mental health and wellbeing. To demonstrate that, we need to progress the sector frameworks, collectively and without fear. We need to ensure that mistakes that happen in all institutions are learned from and that we do this with compassion and transparency.

I think many of the things that we have heard today demonstrate the complexity of the mental health continuum—everything from poor mental health to mental illness, through to the tragic events that we see across our institutions with suicide. That has a profound impact on university staff and students and, of course, the families and friends.

We want to deliver as best we can within the education setting that safe inclusive environment. I do not believe that the statutory duty of care necessarily will help us do that. I do believe that a laser focus and uptake of the frameworks that are already in play absolutely does need to happen, and we might want to talk about those in a moment. However, let's be very clear that it starts with this: one in four students have diagnosed mental health issues, with one-third recording poor mental wellbeing.

What we are seeing in our universities and in society is increasing severity and complexity of presentation, and the same is true within the NHS settings. The NHS setting is finding it increasingly difficult to provide services, recruit staff and retain staff and, therefore, there are higher and higher expectations being placed on universities at this time.

That fundamentally is part of what we are trying to deal with. Part of this is to recognise how we get the continuum of poor mental health as well as the acute episodes, and how we recognise and support those students. There is best practice there and there are frameworks that we can use to do that.

Q21 Mr Robin Walker: You have said that you do not think a statutory duty of care would necessarily help. It would be useful to expand on that, because we have to weigh up the arguments on both sides. We have heard the suggestion that you have a greater legal duty to your staff than you do to students, and yet students are key to going to universities. They are your customers, as well as people who live in your institutions, in many cases. What is the answer to why a statutory duty of care, on the same basis as you have towards employees, would not be appropriate for students?

Professor West: The statutory duty of care for employees is enshrined within employment law. There is a very clear contract between the employer and the employee. There is a level of control that we can have within that environment. The difficulty in the student space is that we do not have that level of control and influence in the same way.

Schools have a degree of influence and control in schoolchildren, and you quite rightly earlier pointed out that safeguarding in schools is very



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different to what happens in adult education settings. We have to remember that for many of our students, they are attending multiple different settings and sometimes not even on campuses. They are engaging with universities remotely.

Very few of our students live on campus in campus halls. The vast majority of students are living at home or are living within communities in multiple occupancy dwellings or halls that are outside the university. We have a very complex and very diverse picture.

We do have a general duty of care, and we do have to ensure that what we do in our institutions recognises the importance of ensuring that we do create safe and inclusive environments within which people can thrive and flourish. That means, wherever we can, engineering out risk and reducing risks. Of course, that does apply to the settings that students are engaging with while they are at university.

The difficulty is when they are not here, and they are not here for many different reasons. That is when it becomes difficult in terms of a statutory duty of care. We do not have the level of control that you would see in a hospital, in a school setting and in other environments. We should also recognise that, even in school settings, with that statutory duty of care we are seeing increasing numbers, tragically, of young people taking their lives.

Q22 Mr Robin Walker: Some of the examples that we have heard about in terms of issues that have been reported and not acted on for periods of time—surely those fail the test of a general duty of care, and the argument would be that without some form of statutory framework, there is no accountability for that. Do you recognise that that is a valid concern?

Professor West: I do. I am not arguing that there should not be a mechanism whereby the university sector is held to account. I think we absolutely do need that. The question is: is the statutory duty of care the best way of doing that?

Interestingly, an earlier witness started to describe something that I thought was quite interesting, which was a support excellence framework in a similar way to other frameworks that we have in the sector. That is quite a creative way of thinking about how we ensure that there are guidelines that are then adopted and measured against through a mechanism. That could be—in England anyway—the Office for Students; it could be the Office of the Independent Adjudicator; or it could be a combination of Department for Education, Minister and university. There are different ways in which we can get the accountability.

It is important that we find a mechanism to do this, because what we have heard today is evidence and anecdotal information. One of the things that we need to do is to create the evidence base, the learning and some frameworks that everybody adopts, to ensure that we are collecting information in the same way and learning from the tragic events, but not



just those. I would argue that we should be learning from the near misses that occur in universities as well, because, as Ged said, universities are saving many, many, many lives by the work that we have been doing over many years.

Q23 Mr Robin Walker: One more on this: do you think there will be negative consequences, Jill, for the space that you work in—student services and support for students—from having a statutory duty? I find it difficult to see what negative consequences there could be, but do you feel that there are risks on that front?

Jill Stevenson: Yes, I think there are three unintended consequences of this duty. One is that it takes us back to a place where we were focusing on compliance and the risk of doing things wrong, rather than facilitating that culture of continuous approval where we are all working together. I think that is what we have been working on and that is where we need to be. I don't want us to go back to a place where people ask, "What is the minimum that we need to do in terms of complying with legislation?" This is ultimately about culture change. We believe that that additional duty of care will put us backwards and will not drive that continuous culture of change.

From our practitioners that work in student services, there are real fears about retribution and people being held personally accountable for failings and mistakes. I think the fear of litigation and retribution means that some people who are working in this area feel that this is not something that they would want to engage in. We are worried about the risk of the drain of talented professionals working in student services, but also in the academic sphere, if we go down this route rather than an enhancement approach.

The second unintended consequence I think is around the diversion of resources from areas that we should legitimately be investing in, in this space, into areas of where we should not be. You have already seen that happening in universities where we are, as I mentioned earlier, investing more and more and more in mental health nurses, for example, because of this gap in the NHS. If we feel more risk on us, there could be more of that type of investment. However, what we should be doing is investing those resources in the types of support that will prevent people getting to this place in the first place: academic tutors and the student support professionals to help them engage with learning rather than the clinical end of the spectrum; residential life programmes that mean students can come out and work together, and have fun together; and training programmes for students to be able to help support and refer each other, if that is needed.

If universities have to put their resources more into essential risk management and avoiding being told we have done the wrong thing, absolutely, those resources are going to be moved over into the wrong place. That said, we absolutely support further work on engagement with



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the NHS and the partnerships that can be made there, but the resources need to be in place. I would urge Government to be thinking about that.

My third unintended consequence relates to that risk, and it is something that was mentioned earlier. I think there is a real danger that higher education providers are going to avoid taking on risk for supporting students if this additional duty of care is introduced. One thing that has not been mentioned today—and it is important to note—is that attending university is acknowledged to be a protective factor. I think Steve mentioned that there is an absolute massive amount of good work going on, and the suicide rate at university is significantly lower compared with the wider population. I can provide the stats on that.

That is not stated to dismiss the tragedy of each suicide. We all feel this tragedy immensely. We stand with parents in wanting changes and more professional support. We cannot imagine the distress that has been caused, but the reason I talk about this protective factor is to give an indication that universities are not complacent, that they are investing support and that that support framework is already providing that support environment for students.

If this duty of care came to us and we felt more risk averse, it is more likely, for example, that universities would move students to fitness-to-study procedures earlier than they would now. At the moment, we try to put support frameworks in place to retain students at university. However, there is a risk of getting this wrong, of potential litigation retribution, and that students would be essentially fast-tracked towards fitness-to-study processes, which would exit them from universities, because of that risk. That means that they would not be engaging with universities and that protective factor has gone.

I think the other risk that was mentioned is that if students feel they are going to be moved into fitness to study or universities are going to have to take more extreme steps, they will be afraid to come forward for support in the first place. They would be concerned that they could be put on fitness-to-study measures, or that the very people in their family networks who are exacerbating their mental health may be contacted, for example. We need to think about the risks, and the real risk of that protective factor being removed from students.

Q24 Tonia Antoniazzi: This was something that Steve said, but I think Jill could probably talk about this. There is a lot of good work going on, but what we have heard from the parents is that it is about consistent practice—good practice. There is obviously great work that we have heard about going on with the Student Minds charter, but how is that then implemented? Mark said earlier that they are looking for an evolution of policy rather than a revolution. Suicide is a preventable death. One of my takeaways was what Ged said about whether society has the resources, not just universities. The answer is that society does not really have the resources.

On the whole thing about the resources not being there, one of the things



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you have spoken about is that you are scared of litigation and scared of putting things in place that are going to hold you accountable—not you personally, but the institutions. Surely, it is evolution not revolution. How can you pool together the services that you have at the universities, and have that parity across all universities in the United Kingdom, so that these young people, mature students and foreign students have that support network moving forward? How can we break that fear for you to do that?

Steve, you said something about there being an evidence base, because what we have heard today is anecdotal. For me, the question is: who is to do that research? Where is it? Who is responsible? Is it you?

Professor West: Fantastic questions, and I think you have gone to the nub of it. First, at the moment, it is in England only that this is being considered. The devolved nations have a different way of engaging with this. That said, Universities UK is four nations, and I am pleased to say that many of the things that UUK has developed, in partnership with PAPYRUS, with Student Minds, with families and with the NHS are being adopted across all nations. I will give you one example.

On suicide-safer Universities, which is a UUK framework, we have just done a snap poll in terms of the guidance. We asked how many universities have adopted it. We had a response rate of 83 universities out of 115. The poll was open for four days—this is England only—and 99% have adopted suicide-safer universities; 89% have adopted or are adopting the placement guidance, so there was a whole raft of additional areas; 93% have adopted or are adopting the trusted contact guidance; and 100% have adopted or are adopting postvention guidance.

One of the things that we have done as a sector is to collect some data. However, I think there is further work to do in terms of the way in which we systematically investigate tragic events that occur very infrequently in our universities—nevertheless, they occur—and have a systematic way of recording them, engaging with parents and friends as we are doing this, as part of the contribution to coroners. My background is in health, and I think we should collect this information in the same way as we do with serious incidents in the health system, so that we have a systematic approach. We should have an independent mechanism whereby all of those documentations are sent to a single source: researchers who are working in the NHS who are used to looking at these things and pulling out the learnings that we can share across the sector. Those can be used to ensure that we do demonstrate the learning and we do enact that learning; I think that is one of the frustrations that I have heard from families.

The Student Minds charter was mentioned earlier. It is interesting that the UUK work and Student Minds align very well. There is a mechanism at the moment that is being led by previous Ministers—they are not there any more—who required all universities in England, again because it is a devolved matter, to engage with and have in place the Student Minds university mental health charter.



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We are on the journey. We are not there yet but, very importantly, it is not a tick box. It is about enhancement, and it is about ensuring that we learn and develop as we go. That is critical. That is why it is a very big piece of work for a university to do—a whole university approach, involving staff and students, and being accountable for the delivery of what we sign up for.

Therefore, we have some things in train. The question is: how do we make sure that we pull all of this together and we report it and demonstrate the progress that has been made, rather than it just sitting in individual universities? We need to pool it to have impact.

Chair: I do not know if anyone wants to come in there. You have been very generous with your time, and patient with our parliamentary processes and votes coming in the middle. I think we have covered a huge amount today, and there is obviously more to look at, consider and digest before the upcoming debate. Nick, did you want to come in?

Q25 **Nick Fletcher:** One of the panellists earlier—it is on topic but off topic—said something I was concerned about, which was that the attendance at lectures is often around 50%. If you are not seeing students, you have an issue there. Can you briefly tell me whether it is normal for attendance to be so low, at 50%? Do you agree with me that if students are not there, it is very difficult to help them? Surely, one thing you could do as a university is to make sure students attend lectures in a part of the campus.

Chair: Who are you directing that to? Shall we bring Jill in first?

Jill Stevenson: A couple of points, and one is about diversity. That 50% statistic will depend on universities and their models. Not every university has that typical model of students coming into lectures and attending that way. There are lots of online delivery models and there are hybrid models, so I think we need to be careful about that statistic.

I think it goes back to the point about these being adult learners and being able to engage with their studies how they see fit. Not everybody comes and sits and has a lecture. They will engage with studies in different ways, they will read, they will research. It is incredibly difficult to track where everybody is all the time. That goes back to this fundamental point that has been raised today—this is why we think the duty of care is so difficult—about how universities cannot have the level of control and monitoring that an employer might with an employee, or a school might with children, because they are seeing them every day. That relationship is fundamentally different. All of us have learners that are studying remotely, studying online and not living on campus.

If it was to go down a route where universities were expected to do that, that has a significant resource implication, and I think we need to be careful about that. If there is a requirement to check in on that basis so that we know where every student is at all times, that has a significant



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resource implication and the infrastructure would need to fundamentally change.

Professor West: I think that was one of the things that I was saying. We simply do not have that level of control. These are adult learners, and they are making choices about how and when they engage. We hope that we create an environment where they will want to engage, either online or directly on campus, in seminars, in tutorials and in our workshops.

There are universities who are using student engagement as a mechanism to begin to spot when a student might disengage. That is a big high-level statement. What does that mean? It means that we use data sources and data analytics to look at when students are engaging with us, and we profile them in a number of different ways. We will look at them engaging with the virtual learning environments, engaging with the library and engaging with virtual environments that they are using to submit work. We will look at them in terms of if they are on campus. We will look at them in terms of how they are using their accommodation. All of those data points are then looked at to consider whether or not we are seeing a change in a student's behaviour, which might indicate that they are disengaging. We know loneliness and disengagement is an early warning sign.

Then we have mechanisms whereby we can start to nudge and engage with the student and enquire how the student is. Then we can try to work with the student to understand what is changing: "What is going on? Why have your marks dipped? Why are you not engaging?" We can take them on that journey and encourage them to engage, where necessary, if we have serious concerns—this was mentioned earlier—with their trusted contact.

That trusted contact may be a parent, but it may not be a parent. I am certainly very clear about the GDPR, and I would absolutely, where there is threat to an individual's life or the life of others, have no hesitation whatsoever in contacting the trusted contact. It is not always the parent, and that is one of the things that we have to understand, because sometimes that parental environment is not the right environment. Nevertheless, where we can, I will work with students sometimes personally to engage with their trusted contact. It is essential.

I would also say that it is hugely important for parents and supporters, when students are coming to university, that there is full disclosure of anything that someone is worried about. I would also argue that we need to make sure that there are lines that people can use if they have concerns about their loved ones, whether it is from a student, a member of staff or a parent or loved one. We have all of those things in place. That is why I think over the last 10 years we have seen significant advancement and improvements.

Let us just remember that every death is potentially avoidable, but we need to know because, tragically, 50% of those deaths in our institutions



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were never recognised. They were never expected. The student was not seen as high risk by their families, their friends, the NHS services or universities. That is the tragedy of this. It is hugely complex, and every story is slightly different. It is very different across the age ranges and, unfortunately, we do not know enough about how our interventions work and have impact. Prevention in this space has to be our focus: prevention, promotion, intervention and postvention, tragically, when something goes wrong. Each journey is a learning one.

Q26 Mr Robin Walker: You made the point about the trusted contacts, and in two of the cases we heard from parents where that clearly was not the approach taken. We have heard about this theoretical conflict with the law when it comes to GDPR; you are being clear that you do not agree with that, and clearly there are universities that take a different approach. Is that not something that the sector should embrace across the board? Isn't having a trusted contact policy something that every university could sign up to? I absolutely take the points from the NUS about the concerns of taking that too far, but with the right of opt-outs for people and the ability to choose who their trusted contact is, surely all that can be managed. Why isn't that something that can be universal right now rather than something that requires frameworks and years of engagement to deliver?

Professor West: Mr Fryatt identified quite well that actually the information and guidance is absolutely there. Where we are engaging with possible risk to life or others, there are no restrictions around GDPR. We should be taking action. Every vice-chancellor has had a letter outlining that and saying that must be the case. It should be embedded and enshrined in their mentally healthy universities frameworks, which universities are encouraged to have. This is too important for us to duck the issue. I do believe that that ability to contact, where we should contact, happens. Where it does not, there is no excuse.

Chair: The question is, though: where is the accountability? That is the big challenge of the issue that we are debating. Thank you for answering all our questions and staying with us as late as you have. We very much appreciate it, and it has been hugely informative. It will help to inform next month's debate on Mr Fryatt's petition.