Written evidence submitted by Disabled Students UK

Submission to the Education Select Committee

The following document is being submitted as a response to the Education Select Committee's call for evidence into the impact of COVID-19 on education and children's services. Specifically, the enclosed report and updates concern the following from the terms of reference:

- The implementation of the critical workers policy
- Support for pupils and families during closures
- The financial implications of closures for providers (including higher education and independent training providers), pupils and families
- The effect on disadvantaged groups
- What contingency planning can be done to ensure the resilience of the sector in case of any future national emergency

About us: Disabled Students UK

Disabled Students UK is a grassroots, disabled-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.

More information can be found at our website: www.disabledstudents.co.uk

Why we are submitting evidence:

The structural issues that affect disabled students are not new. However, the pandemic has caused them to become acute.

The Office for Students (OfS) is responsible for enforcing equality and diversity legislation in English higher education providers as per its own regulatory framework, and it is currently failing to do so. Instead, it emphasises "Access and Participation Plans," which fail to demand full legal compliance or to impose penalties on providers that fail to uphold their obligations under disability law.

As we understand it, the OfS reports to Parliament and the Secretary of State for Education. Therefore, we are submitting our report to the Education Select Committee as evidence of the impact that lack of effective regulation before and during the pandemic has had on disabled students.

Short Summary of our Report:

An introduction to our original report may be found on the next page of this document, and a table of contents is available on page two.

An earlier version of this report has been available on our website for several weeks. The version we are submitting today has been updated with some corrections and revisions as well as an update which takes account of events which have taken place during June-July 2020.

Impact of the Pandemic on Disabled Students and Recommended Measures

A report by Disabled Students UK

In April-May 2020, several reports have surfaced which provide insight into disabled students' struggles in accessing higher education during the pandemic. In this report, we want to bring these findings together to highlight the issues experienced by disabled students and suggest ways forward. We also add our findings from informal surveys conducted with a large number of disabled students. In this way, we hope to both gather useful information in one place and add disabled students' voices to the discussion.

The report begins by detailing some of the general pressures experienced by disabled people during the pandemic and is followed by a discussion of specific study-related difficulties. We go on to examine the way that the responses to the pandemic from universities as well as the Disabled Students' Allowance (DSA) funding bodies have impacted disabled students. We recommend better approaches. Finally, we look at what the higher education sector can learn about inclusion from this pandemic.

Update:

We have added an additional section covering events from June-July 2020 to the end of this report.

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1. Being a disabled student in a pandemic

Many common pandemic issues are hitting disabled people harder

Disabled people in the UK have been harder hit by the effects of the pandemic.[1] [2] They are more likely to live in low-income households[3], and are consequently more likely to experience **financial hardship** during the pandemic and be less likely to have access to a computer and reliable internet.

In 2014 DSA started requiring that disabled students paid £200 toward assistive technology such as computers. Since then there have been indications that 30 percent fewer students are able to access such tools, predictably hitting the most vulnerable students the hardest.[4]

Because of the extra time and energy needed for disabled students to coordinating their support, they have less time and energy to do paid work[5]. Of those disabled students that were in employment at the start of the pandemic many have had to withdraw due to the virus risk, further exacerbating their financial issues.

The time and cost of being a disabled student also means that other responsibilities, such as having to **care for children or other household members,** have a greater negative impact on disabled students. In a survey conducted by the Association of Non-Medical Help Providers (ANMH), 11.1 percent of disabled students reported caring responsibilities impacting their studies.[6] In addition, disabled students are also disproportionately likely to have had to return to **abusive home environments.[7]** It is important to mention that many of these issues are compounded for students who belong to multiple marginalised groups.

Disability-specific pandemic difficulties

Some disabled students have been instructed by their doctors to **shield** or isolate themselves completely due to a higher risk from the virus. This means that they are confined within their homes and must worry about what may happen if they catch the virus. Such students are likely to require additional mental health support and practical help - especially those remaining in student halls. Disabled men under 65 are 11.3 times more likely than nondisabled men to die from the virus, while disabled women under 35 are 6.5 times more likely than nondisabled women to die from the virus.[8]

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[1] Coronavirus and the social impacts on disabled people in Great Britain

[2] Covid-19: the impact on disabled and older people in the UK

[3] Households Below Average Income: An analysis of the UK income distribution: 1994/95-2014/15

[4] BATA launches campaign to scrap £200 contribution for DSAs

[5] 'We are just ordinary people working hard to reach our goals!' Disabled students' participation in Norwegian higher education

[6] "Your DSA Support and COVID-19 - Student and Provider Survey" Final Report - 12th May 2020, Association of Non-Medical Help Providers (ANMH)

[7] "Disability & Domestic Abuse," Ann Craft Trust

[8] "Coronavirus (COVID-19) related deaths by disability status, England and Wales: 2 March to 15 May 2020," Office for National Statistics

While only a small proportion of disabled students are shielding, a larger proportion has had some part of their **health and social care cut** due to the risk of infection. For instance, they may not be able to take medication they usually take, receive hospital care that they would usually get, or use personal assistance which they usually rely on. As a result of this, many disabled students are experiencing untreated flare-ups of their conditions with unusual amounts of pain, fatigue and cognitive problems.

In addition, some disabled people excluded from the **government register** of "vulnerable people" have experienced issues such as food insecurity. For instance, blind people who used to rely on online food orders suddenly had no way of getting groceries.[9]

Finally, the unique ways in which **ableism** has been manifested during the pandemic has taken a mental toll on many disabled students, including but not limited to:

- The seemingly constant discussions on whether the lives of those with pre-existing conditions should be valued as much as the non-disabled, and the worries around being deemed unworthy of saving in a triage situation if they caught the virus[10]

- The "do not resuscitate orders" being pushed on perfectly healthy people who are autistic or have learning disabilities, seemingly resulting in higher death rates even than what we see in care-homes[11] [12] [13] [14]

- The worries around the way the Coronavirus Act 2020 limits their rights, for instance leading to higher risks of those with mental health difficulties being involuntarily committed[15]

- An anecdotally-reported increase in disability harassment (e.g. those who are visibly disabled being harassed for going outside when they "should be shielding," those who are blind being harassed for not being able to keep a distance without help and those with fatigue conditions being harassed for needing to sit down in between walking)

Understandably those disabled students who have had any space to follow current events have been weighed down by the way that the civil rights we have fought so hard for are now being eroded.

All of the above-mentioned stressors naturally have an impact not only on disabled students' health and wellbeing, but also their ability to study.

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[9] "Disabled people left off coronavirus vulnerable list go without food," The Guardian.

[10] "ICU triage in an impending crisis: uncertainty, pre-emption and preparation," Journal of Medical Ethics

[11] "The fight against Covid-19: Whose life counts?" The British Institute for Human Rights

[12] "'Unprecedented' number of DNR orders for learning disabilities patients," HSJ

[13] "It is not only coronavirus that risks infecting society – our prejudices do, too," The Guardian

[14] "Coronavirus: Hundreds of learning disability deaths in just eight weeks, new data shows," The Independent

[15] "UK: COVID-19 Law Puts Rights of People with Disabilities at Risk," Human Rights Watch

2. Studying in a pandemic

Mental health, flaring conditions and adapting to new working conditions

In line with the pressures detailed in the previous sections of this report, many disabled students are reporting heightened **anxiety and stress**. This is impacting on their pre-existing mental health conditions, physical health conditions, concentration and energy levels, which in turn are affecting their studies.

The survey responses of 126 non-medical support workers showed that 46 percent were concerned about the **wellbeing** of their students due to issues of peer isolation, depression and anxiety.[16] Many especially pointed out this difficulty for those with pre-existing mental health conditions or autism. It is worth mentioning here that many of these students have had much less of the support that they usually rely on from GPs, support workers, and community psychiatric nurses.

In an informal survey conducted by Disabled Students UK, the most common issues reported by disabled students were related to anxiety, **fatigue and concentration**. This included problems with using screens for long periods of time, taking in information online, planning work and coping with change and unclear demands.

These are issues that many disabled students struggle with normally but which have been exacerbated by the extreme situation.

In addition, many disabled students are experiencing issues with the unfamiliarity of current working conditions and pre-existing conditions **flaring up**. Disabled students spend years **adapting** their study environment to their non-typical needs. Now they have suddenly been asked to adjust to a new environment (and perhaps new needs if they do not have their usual medical care). This will, understandably, require extra support.

Inaccessible teaching and assessment

The changes to teaching have hit disabled students hard. In a survey conducted by the Association of Non-Medical Help Providers, 81.3 percent of disabled students agreed that "*Because of the changes to my academic work, online teaching, and assessments, the Covid-19 situation is negatively impacting my studies.*"[17] Out of the disabled students surveyed, 57.6 percent said that not having **access to teaching** was impacting their studies, 35.7 percent stated that not having access to course materials was impacting their studies and 73.4 percent stated that not having access to academic resources such as libraries and workshops was impacting their studies.

One reason for this is that universities have historically put little thought into **online accessibility**. For instance, only 31 percent of universities have Accessibility statements - a required document under the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 (PSBAR).[18]

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[16] "Your DSA Support and COVID-19 - Student and Provider Survey" Final Report - 12th May 2020, Association of Non-Medical Help Providers (ANMH)

[17] "Your DSA Support and COVID-19 - Student and Provider Survey" Final Report - 12th May 2020, Association of Non-Medical Help Providers (ANMH)

While we cannot go into depth regarding the various ways in which online teaching has been inaccessible, we wish to provide a **sample of reported issues**. All of these issues can be addressed if the university takes a preventative approach, providing teachers with clear guidance on best practice in inclusive online teaching and encourages staff to think of creative solutions together with disabled students when unforeseen issues appear:

- Internet being too inconsistent for BSL (deaf/hard of hearing)

- BSL being possible but the lecturer forgetting to include the BSL interpreter in the webinar (deaf/hard of hearing)

- Captions being of poor quality (deaf/hard of hearing)

- The lecturer not describing what is on the slides they are showing (blind/visually impaired)

- Students who need scribes not having access to them (mobility impairments)

- Exam questions not being provided in audio format

More specific issues are discussed in the sources that we reference at the end of this report. Further information on accessibility during the pandemic can be found at:

- https://www.ndcs.org.uk/blog/remote-learning-in-higher-education-for-deaf-students/

- https://diverseeducation.com/article/172812/

- https://accessiblecollege.com/2020/03/18/covid-19-and-college-accommodations/

- https://www.insidehighered.com/news/2020/04/06/remote-learning-shift-leaves-students-disabilities-behind

- https://www.mapping-access.com/blog-1/2020/3/10/accessible-teaching-in-the-time-of-covid-19

3. University and Disabled Students' Allowance (DSA) response

Decreased support from DSA and universities

When disabled students shift environments, their support also needs to shift. This means that service providers must be **flexible in the support they offer** and often means that students require more support for a period.

In these circumstances, it is important that DSA funding bodies and universities step up to quickly and painlessly offer extra study skills support, mentoring support, counselling and advice for disabled students. All this serves to make the transition to working remotely as smooth as possible and not put the disabled student at a "significant disadvantage".

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[18] "Accessibility Statements V3," AllAble

Many of the issues mentioned above are issues that disabled students can receive help with through the Disabled Students' Allowance. 85.2 percent of surveyed DSA students agreed that *"my DSA learning support is important for me at this time"* and 61 percent agreed that *"I feel that I require **additional DSA support** through this period due to the changes to my academic studies."*[19]

However, instead of increasing support to meet the increased demand, the survey responses of 105 non-medical support workers indicated that on average, **only 74 percent of normal support** is currently being delivered.[20]

Part of the problem seems to be that DSA funding bodies like SLC are **blocking extra support** due to not acknowledging that the stress of the pandemic is causing disability-related academic issues. The Student Loans Company claims that no extra mentoring sessions can be authorised to assist with stress due to COVID-10 because it is not a study-related concern.[21] It is hard to see how the body in charge of funding for disability support at university can fail to understand the biological fact that both physical and mental health conditions are exacerbated by stress, leading disabled students to currently experience greater difficulty in completing academic work and have a greater need for support.

A large proportion of disabled students report to us that they have not been given the same **tools, software or adapted furniture** which they had used and relied on at university - despite having been expected to do all of their studying at home for more than 2 months. In addition, **some support is not being provided in a way that is accessible**: SLC is choosing not to allow needs assessments and non-medical help through chat and email instead of text-relay for deaf students.[22] Chat not only functions better but takes less than half the time.

While some universities are stepping in to pick up the slack, some even increasing their disability support, others are decreasing their support just like the DSA. 48.8 percent of disabled students report a **lack of access to university or college support services** impacting their studies.[23]

Some disabled students are reporting delays in accessing disability support as administrators have been **furloughed, redirected to other tasks or let go**. Others are reporting that their complaints regarding being denied reasonable adjustments have been put on hold by the university and regarded as "non-essential" activity. Finally, a large number of disabled students report **staff being impossible to reach, failing to send out information about the support available or being unsure of what support is available when asked.**

Disabled students' need for support has increased during the pandemic while disabled students' support from DSA and universities has decreased. We can only conclude that the Department for

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[19] "Your DSA Support and COVID-19 - Student and Provider Survey" Final Report - 12th May 2020, Association of Non-Medical Help Providers (ANMH)

[20] "Your DSA Support and COVID-19 - Student and Provider Survey" Final Report - 12th May 2020, Association of Non-Medical Help Providers (ANMH)

[21] "COVID-19 Resource Hub (Coronavirus)," NADP

[22] "COVID-19 Disabled Students Allowance (DSA) Frequently Asked Questions," NADP

[23] "Your DSA Support and COVID-19 - Student and Provider Survey" Final Report - 12th May 2020, Association of Non-Medical Help Providers (ANMH)

Education has failed in their responsibility to give disabled students equal access to education during the first part of the pandemic response, and hope that they learn from this during the second part.

Solutions - increased support

It is crucial that DSA funding bodies and universities must not be allowed to use the pandemic as an excuse to cut back on disability support at a time when disabled students' support needs have increased.

Universities must make sure that their **disability services stay fully staffed**, with extra staff recruited if necessary, and that they are given the resources to communicate clearly with students about what support is available to them. We also recommend that universities invest in offering **additional counselling** (as many already have) and that staff members **check in individually** with those students who have mental health issues, are shielding, or are neurodivergent. For disability support staff to be able to do this job well universities must invest in their staff instead of furloughing some and overworking others.

We understand the decision by the SLC not to carry out ergonomic assessments remotely; however, informal surveys that we have conducted show that many disabled students are suffering without their adapted tools. We, therefore, insist that it is crucial for **interim ergonomic provision** to be put in place, with the guarantee that a full assessment will be provided when it is once again safe to do so. Considering that many disabled students are also unable to access their teaching due to not having a computer we urge SLC and other funding bodies to **reconsider the requirement that disabled students pay £200** toward such assistive technology.

The Professional Association for Disability and inclusivity practitioners in further and higher education (NADP) recommends that *"The Student Loans Company reconsider the decision not to offer additional **mentoring** support for students where circumstances surrounding studying with Covid-19 has increased their stress and anxiety levels."*[24] We agree, however, mentoring is not enough. Many students will require more **study skills tuition, assistive technology training, etc.** than the hours that are currently included in their needs assessments. In these cases, the change to increased support should be smooth, accessible and must not place an administrative burden on the students.

DSA and University administrative requirements put disabled students at a disadvantage

Beyond insufficient funding and furloughed staff, another significant barrier to support for disabled students is the high demand for unsupported administrative labour that students must undertake.

In an informal survey conducted by Disabled Students UK, disabled students were asked what solutions would help them most in lockdown. Out of 19 options (including increased support, free computers and universities having a no-detriment policy) students felt the most important solution was: *"Removing the need to prove some aspect of my disability if I have already **provided evidence** for being disabled once to my university."*

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[24] "COVID-19 Resource Hub (Coronavirus)," NADP

As mentioned above, disabled students often have **decreased time and energy** resources, a problem that has become worse during the pandemic. At the same time, the **time and effort required** by universities and the Student Loans Company to get support are substantial. This applies to everything from hardship funds to increased DSA support.

Many students report trying to contact their university disability service about needing additional or changed support during the pandemic, only to find that they have to jump through hoops to get that support. In addition, disability support staff are often stretched so thin that getting clear **instructions** and having their requests processed without significant **delays** is often impossible. This all proves too much for many students, many of whom simply **give up** on the support they need.

The failure to provide disability support during the pandemic is a vivid example of what disabled students have been arguing for many years: Requiring students to perform extensive administrative work in order to get their disability support is effectively the same as **refusing** them support.

Moreover, in the context of the pandemic, it is often impossible for students to obtain the required evidence in the form of **diagnoses and medical notes**. Many students who are waiting for a diagnosis of specific learning difficulties such as dyslexia have been unable to receive one due to the lockdown. To make sure that these students do not go without support the Student Loans Company has declared that they will temporarily accept evidence from a specific type of needs assessments instead.[25] However this applies only to a specific set of diagnoses.

This is not a new problem. In 2016, the Equality and Human Rights Commission recognised this issue in their technical guidance on the Equality Act 2010, emphasising that when the processes of requesting and arranging support involve too much work by the disabled student, it puts the student at a **"significant disadvantage."**[26]

Despite this, the SLC has refused to offer **blanket increases** in support or to ease administrative requirements for disabled students: *"Any requests for additional hours will be reviewed on a **case by case basis** and issues presented by COVID-19 will, of course, be considered. SLC does not believe that it is necessary or appropriate to change established processes and **allow nonmedical helper** providers to request additional hours of support themselves. We would encourage providers to ask students to engage their needs assessors in good time, to allow for additional recommendations to be made and reviewed before a student has used their full agreement of hours."*[27]

As an example, let us imagine that a student needs additional DSA support such as mentoring due to the stress of the current situation having caused a flare-up of their condition:

- First, they would likely contact their university to ask **who is responsible** in this instance, DSA or the university. In the current situation getting hold of someone to ask is likely to be tricky and they may have to go through several of their university contacts.

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[25] "COVID-19 Disabled Students Allowance (DSA) Frequently Asked Questions," NADP

[26] "Equality Act 2010 Technical Guidance on Further and Higher Education," Equality and Human Rights Commission (EHRC)

[27] "COVID-19 Disabled Students Allowance (DSA) Frequently Asked Questions," NADP

- If the responsibility for the support lies with DSA, university staff is likely to recommend that the student contact their **needs assessor**. In this situation getting hold of the needs assessor is likely to involve delays.

- When the student has reached the needs assessor and explained the situation the needs assessor may ask for **proof**.

- If the student is **lucky** evidence from a GP is enough and they don't have to wait for months to see their specialist doctor to acquire this proof. Again, if they are lucky, the GP may offer a phone appointment within 3 weeks. If they are unlucky, their GP currently offers no appointments for patients needing medical notes and so the student must again wait months to acquire this proof.

- In the GP appointment, the student will explain their difficulty in the same way that they did to the needs assessor and their university. The GP will ask the student what adjustments they need. The GP will then **write down what the student is saying**, put their signature on it and send it to the needs assessor.

- At this point, the needs assessor will create an **amended needs assessment** and send this to the university. Again, this is likely to involve delays in the current circumstances.

- Finally, the student must contact their **service provider**, which hopefully is offering their service at a distance, to book an appointment. More delays.

Please note the **irony** of asking a student who is suffering from a flare-up and who needs help to make their work more efficient to go through this time-consuming and taxing process. Also note the unnecessary burden it puts on our already **pressured NHS**, when all the doctor is doing is confirming what the student themself is saying. Unsurprisingly many students do not get through the whole process but give up somewhere in the middle. It is not an exaggeration to say that many disabled students spend their whole degrees fighting for basic accommodations, even in non-pandemic times.

[Solution - blanket support and treating students as experts](#)

We have identified four ways of reducing the administrative work of disabled students:

1. Helping disabled students with administrative tasks

2. Reducing but not removing the need for administrative tasks

3. Offering blanket support to all students

4. Offering blanket support to all students who have already declared a disability, waiving the requirement for additional proof

1. Increase administrative help

It is crucial that universities and other service providers do not cut back on their disability support administration at this time but rather invest in the work of these staff members. This includes both providing **clear information** to all disabled students about how to access the support that is available and stepping in to do **administrative work** for individual students.

2.   Reduce need for administration

We ask that universities and DSA funding bodies **relax their evidence requirements** not just in keeping with what evidence is strictly possible for disabled students to acquire at this time, but also with the aim of ensuring that disabled students are not put at a significant disadvantage due to the administrative burden.

The current situation does not allow for additional support hours to be granted on a **case-by-case basis**, requiring the student to spend time and energy that they do not have explaining their situation or chasing up evidence. This is not an accessible solution.

Ultimately, disabled students are the experts on their own conditions, and they know much better than any needs assessor what their needs really are. We ask DSA funding bodies and universities to consider **working from the assumption that disabled students are competent and honest,** and trust that they themselves can determine whether something like study skills support or dictation software will be useful for them or not. We believe that these products and services will only be useful for, and thus only be requested by, those students who genuinely have a need for them.

Reducing the burden of proof on disabled students also **reduces the administrative workload** for universities and DSA funding bodies.

3.   Provide blanket policies

A number of Higher Education Institutions have already implemented some **blanket policies which benefit all students**, including those who are disabled. These include:

- No-detriment policies ensuring that students do not receive lower grades than what is indicated by their past work (although this must be extended to apply to postgraduate taught and research students)

- Changed rules for coursework extensions, such that students can apply for a 2 week extension without any evidence

- Providing laptops, software and internet-access dongles

4.   Provide disability specific blanket policies

In addition, we must see an increase in **policies which allow students who have already provided evidence for their disability once to access support without needing to provide additional evidence** that for instance, their illness is flaring up. This includes waiving the requirement for evidence when disabled students apply for:

- The university hardship fund

- Coursework extensions beyond 2 weeks

- Funded extensions of 6 months (PhD)

- Suspension of course fees for self-funded students (PhD)

Universities are forgetting that disabled students exist

Society tends to relate to disabled people in two ways, often simultaneously: by acknowledging their needs if we can position ourselves as saviours or by ignoring their needs if it is hard to do so. The

government has spoken a lot about "protecting the vulnerable" during the pandemic, but simultaneously, there have been numerous widespread breaches of disability rights. The Higher Education sector, in particular, has a long history of ignoring disabled people's needs, to the point where they often forget that disabled students exist.

In the weeks before the lockdown, **students who had to shield** because they were at higher risk from the virus were often forgotten while universities encouraged students who lived with elders to stay home. Then, when the universities closed their buildings, they gave little thought to how to **make online learning accessible or how to provide disability support.** Disability advisors had to think on the spot, and often problems were not discovered until disabled students made it clear they could not access the teaching. Even once discovered, problems have frequently gone unresolved due to the staff shortages and administrative barriers described earlier in this report. Disability services are not working at full capacity and disabled students have been forced to perform excessive administrative labour in order to access support, effectively barring them from it.

Universities are now making **long-term plans** for how to teach students in the academic year 2020/2021. However, many of these plans (such as the announcement by Cambridge University that they will have exclusively online lectures for the entire year), do not appear to have included impact assessments regarding how disabled students will be affected.[28] For instance, plans of resuming small-group teaching are not considering how **students who lipread** will be able to understand their tutors if they are wearing masks.

In the US a number of scholars of disability, health equity, institutional policy and inclusion, as well as disabled faculty and allies have put together an excellent statement on why online provision of education needs to continue:

> "Campus re-openings are an issue of civil rights, particularly disability, racial, and gender equity. Given the disproportionate representation of COVID-19 infection and death in Black and brown communities, university policies that emphasize in-person work and teaching run the risk of compounding the impact of racial inequity. These policies also risk endangering already-marginalized members of university communities, including staff and contingent faculty who are less likely to have the option to take time away from work. As a matter of justice, equity, and ethics, we call upon university administrators and communities to value the lives of marginalized racialized and disabled people over the purported economic value of campus re-openings. [...] Members of campus communities who are particularly vulnerable to the virus should not be treated as disposable or allowable collateral damage in the course of the pandemic."[29]

In particular they caution against only allowing online access for those who are on some kind of list of the most "vulnerable", as we know these tend to be very incomplete. (We do recommend the reading of the whole statement, which is brilliantly incisive in its entirety.)

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[28] ["Coronavirus: Cambridge University Students on no face-to-face lectures," BBC](#)

[29] ["Beyond 'High-Risk': Statement on Disability and Campus Re-openings," Accessible Campus Action Alliance](#)

Lack of consideration for disabled students in the initial phase of the lockdown led to unnecessary and unacceptable suffering. It is crucial that disabled students are taken into consideration going forward.

Solution - impact assessments and Office for Students

The Equality Act (2010) specifies that the responsibility of higher education institutions to make their services accessible to disabled students is **anticipatory** - when developing university policy, they are required to consider and prevent potential problems for disabled students before those problems appear. One way to achieve this is to perform robust **Equality Impact Assessments.**

Going forward, universities must create impact assessments which allow them to:

1. Make their online teaching and assessments accessible

2. Ensure that those students who need to continue staying at home after lockdown eases will be allowed to continue their education from home.

3. Ensure that changes to the way on-campus teaching is done do not put disabled students at a disadvantage.

The failure of universities to keep disabled students in mind, and the failure of the Office for Students (OfS) to hold them accountable for it, demonstrates an **issue with the wider structure of incentives and oversight in higher education**. The Office for Students evaluates mainly graduation and employment outcomes rather than provisions during the course of academic programmes. Historically it has focused on promoting "good practice" through competition and releasing guidance rather than enforcing compliance with the Equality Act. This has never worked for protecting the rights of disabled students, and we believe it will become clear during the pandemic that it is also an ineffective method of protecting the rights of other students.

This faulty approach has continued during the pandemic. This spring has presented an excellent opportunity for OfS to create clear rules for what universities need to do in order to give their disabled students equal access and to apply penalties for those who fail. Instead OfS has created a briefing around "good practice" in the sector. Predictably, this has done little to protect students who are being excluded from their education by universities that do not have the minimum human resources or safeguards in place to consider disabled students in a crisis.

Addressing the possibility of universities not following the law in their briefing, OfS simply argues that individual students should make complaints about this. This response is problematic for three reasons:

1. It is not preventative, as the approach to disability in higher education must be by law.

2. We have spoken to a large number of disabled students who have started and then had to give up on the complaints process at their university. Clearly, this route is frequently inaccessible.

3. OfS is essentially pushing their own responsibility onto individual disabled students.

That OfS should have a role in enforcing the law is made clear by its own regulatory framework. Ongoing condition of registration E2 (which applies to all providers) states that the higher education provider must have in place adequate and effective management. A higher education provider is

failing to comply with this condition if "the provider fails to comply with legislation on equality and diversity, and does not have regard to its policies on equality and diversity."[30] Having such a condition of registration but doing nothing to enforce it nor investigate whether it is being followed does nothing but pay lip service to marginalised communities.

However, there is hope. In an unusually proactive move, the OfS recently warned that it could impose financial penalties for universities who engage in recruitment practices which undermine student interests.[31] This sets a precedent for OfS intervention which has the potential to improve protections for the rights of marginalised students.

We urge the Office for Students to use the resources created by Disabled Students' Commission, Disability Rights UK and Disabled Students UK to create a list of concrete rules for universities to follow as regards disability rights in the autumn. These can range from specific rules such as "no disabled students must be excluded from receiving their education if they feel unable to leave the house due to an increased risk of dying from the virus" to more structural rules such as "the university must **publish transparent, accountable, achievable and progressive Equality Impact Assessments for their autumn plans**. These plans must have concrete action points based on the 2010 Equality Act, and the university must publish updates on whether these have been achieved."

4. Wider context and opportunity for progress

Disabled students have long been denied reasonable adjustments which they need in order to be able to access education on equal terms.[32] [33]

During the pandemic, many accommodations which have previously been denied disabled students, have suddenly been put in place for non-disabled students - from lecture recordings to coursework extensions. Blanket compassion and patience have been extended to the majority of students by this change in circumstances, with many universities eliminating the need for students to prove or justify the disadvantages they have encountered, setting broad no-detriment policies ensuring everyone is treated with understanding and sympathy. There have been outliers, who have argued that we must not "relax standards" or trust students' stories of hardship blindly; however such attitudes have usually been publicly condemned.

On the one hand, it is **inspiring** to see university communities coming together to find creative solutions and heart-warming to see the kindness and care we are able to show each other when we are all trying. On the other hand, the fact that disabled students were long denied these same accommodations when they needed them, highlights the **stark difference in the sacrifices we are**

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[30]"Securing student success: Regulatory framework for higher education in England," Office for Students

[31] "Regulator warns of penalties for recruitment practices that undermine student interests and stability of higher education," Office for Students

[32] "Beyond the bare minimum: Are universities and colleges doing enough for disabled students?" Insight brief, Office for Students

[33] "Disability Discrimination Faced by UCL Students and Recommended Measures," UCL Disabled Students Network

willing to make for disabled and non-disabled students (especially as universities continue to deny disabled students accommodations during the pandemic.)

During this pandemic, it has become clear to a large number of students, some of whom have had to drop out or otherwise suffered due to inaccessibility, that the **excuses** they were told as to why it was impossible for them to get certain accommodations (such as issues with workers' rights making lecture capture impossible) were not true. These same accommodations were quickly put in place when they became necessary for non-disabled students.

If the pandemic has shown us one thing it is that **universities are capable of making enormous adjustments and showing great care and flexibility** for their students in times of need. When they fail to do so for disabled students, or when they require disabled students to go through layers and layers of bureaucracy in order to get that support, it is a choice that universities make.

As we try to convince universities to adopt the same caring and flexible approach also toward their disabled students during this pandemic, sometimes we encounter resistance. Some universities argue they have just put in place the online provision that we have long been fighting for. They wonder why we are not happy.

This fundamentally misunderstands accessibility and the responsibility of universities. **Accessibility is not a tick-box exercise**. Disabled students are varied. While online provision of education is a huge advantage to some disabled students, others cannot access it at all because the way the university has chosen to put it in place does not make accommodations for their disability.

When we conducted an informal survey, most disabled students indicated that their education has become less accessible to them during the pandemic, not more. This is because what disabled students need is not for universities to put in place a specific list of accommodations. What we need is flexibility and compassion, to have our needs considered and valued, during pandemic times and beyond.

The pandemic highlights the **advantage of adopting a more flexible and inclusive approach** going forward: universities that had some inclusivity built into their provision of education (for instance using lecture recordings to a greater extent) were better **prepared for the pandemic**.

Flexibility is also going to be crucial for universities to be able to **continue to offer their services to a wide range of students**. Many disabled students will need to continue to stay at home for their protection, as will some students within other marginalised groups who are at higher risk or have competing responsibilities.[34]

We also predict that the number of students who need flexibility is likely to grow in the coming months, in part due to the recession, in part due to other effects of the virus such as post-viral fatigue. Allowing students to attend teaching online will also mean that institutions can announce their plans earlier and be more prepared if for instance there is a second wave. As stated by the Accessible Campus Action Alliance: *"Principles of accessible and universal design recognize that measures taken in advance are preferable to last-minute measures that are often more expensive and less convenient to all parties."*[35]

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[34] Readers may wish to have a look at this excellent interactive walk-through to understand the problems with forcing disabled students to attend face-to-face teaching during the pandemic.

As the crisis phase of the pandemic fades and the higher education sector is able to respond with more consideration rather than simply react, it is faced with a choice. It could continue ignoring disabled students and other minorities in the autumn and beyond, slowly driving out students for whom education is no longer accessible.

The other option is that the sector could **learn from their own newfound experiences of adapting - and start to shape a more flexible, inclusive and personalised approach to higher education which is simultaneously more resilient to shocks**. Not only would this approach help universities finally comply with disability law, but it would also allow them to offer their services to a broader range of students, developing a broader range of talent and progressing our society.

The pandemic can be used as an excuse to deny disabled students their rights, or it can be used as a springboard for creating more humane and inclusive universities.

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[35] "Beyond 'High-Risk': Statement on Disability and Campus Re-openings," Accessible Campus Action Alliance

5. Update: June-July 2020

Since our report was first released, several new developments have taken place. First, on 25 June 2020, the Office for Students released its coronavirus briefing note on disabled students.[36] The Disabled Students Commission hosted a series of roundtables to learn more about the situations of disabled students in the pandemic and released their report and recommendations "Three Months to Make A Difference" in mid-July.[37] Finally, the All-Party Parliamentary Group for Disability hosted a session on disabled people's access to higher education, which was widely attended.

OfS Coronavirus Briefing Note on Disabled Students

Unfortunately, the OfS briefing note's recommendations (especially those for current students) were inadequate. The main advice offered to disabled students was to seek assistance through avenues that our report has shown to usually be wholly or partly inaccessible. On page three, they suggest that "if a student believes that their requirements for DSA have changed, they should contact the SLC's disabled students' team to request a reassessment." There were no suggestions for students who could not reach the SLC or their university, or who were unable to provide duplicate proofs of their needs amidst the pandemic, or who were unable to undergo reassessments because of their need to shield.

Furthermore, the OfS clearly acknowledges on page 4 of the briefing note that "Universities and colleges are required by law to make reasonable adjustments to ensure their students can study and be assessed." However, they leave out all mention of the fact that enforcement of this requirement is the responsibility of the OfS under its own ongoing conditions of registration for all providers. Instead, the onus is again placed onto disabled students to somehow enforce the law for themselves:

> "If universities and colleges do not do this, the students can make a complaint to their provider, contact their students' union, and – if they have exhausted other avenues – complain to the Office of the Independent Adjudicator."

It is not the responsibility of a disabled student – especially one who is suffering from inadequate support – to enforce the law. It is not students' responsibility to provide regulatory oversight into whether their universities are fulfilling their anticipatory legal duties.

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[36] Coronavirus briefing note: Disabled students, Office for Students

[37] "Three Months to Make a Difference: Key areas of challenge for disabled students requiring urgent action from institutions and policy makers in HE," Disabled Students' Commission

"Three Months to Make A Difference" – Report by the Disabled Students Commission

We were pleasantly surprised to see that the Disabled Students Commission's report chose to challenge universities to take the necessary actions to meet their obligations to disabled students. They identified seven general areas of recommendations and provided a list of "challenges" for HEPs to show how they could address each area in their 2020/2021 practices:

1. Provide disabled applicants with support and guidance that is reflective of the COVID-19 pandemic in the clearing process
2. Ensure ease of access to funding for individual-level reasonable adjustments
3. Ensure student support meets and considers the requirements of disabled students during the pandemic
4. Consider disabled students when making university campuses and accommodation Covid-19 secure
5. Facilitate disabled students' participation in welcome and induction weeks and ongoing social activities
6. Ensure blended learning is delivered inclusively and the benefits of blended learning are considered in long-term planning
7. Embed accessibility as standard across all learning platforms and technologies

All of the above issues have affected members of our organisation; we are waiting to see whether universities will take up their responsibilities in these areas and meet the DSC's challenges, and – if they do not – whether the Office for Students will step in to take effective regulatory action.

APPG for Disability

The All-Party Parliamentary Group for Disability held a session on 9 July 2020 concerned with disabled people's access to higher education. This event was widely attended and, sadly, confirmed for us and for others the severity of the situation for many disabled students.[38] Our understanding is that the APPG will be writing to the Secretary of State for Education, but as of now it remains to be seen what further action will be taken.

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[38] "MPs and peers hear of 'heart-breaking' discrimination facing disabled students," Disability News Service

6. Key documents

Documents cited in the original report:

- The Association of Non-Medical Help Providers undertook a student survey, receiving 3614 student responses.

https://nmhproviders.co.uk/wp-content/uploads/2020/05/Your-DSA-support-and-Covid-19-Student-and-NMHP-Survey-Final-Report-v.3.2.pdf

- The National Association of Disability Practitioners (NADP) released a report based on information from members of staff at colleges and universities working with disabled students.

https://nadp-uk.org/covid-19-resources-for-members-and-colleagues/

- A group of disabled PhD students created an open letter with requests to UK Universities, UK Research Councils and Research Funding bodies

https://docs.google.com/forms/d/e/1FAIpQLScJJR_8srZ1Zmdszud5RiWnjrBwXV0ZmQ7nCj2qWDBDUQhUwA/viewform

- NADSN released a Position Paper "COVID-19 Post-Lockdown: Perspectives, Implications and Strategies for Disabled Staff"

https://nadsn-uk.org/resources/

- DSA answers to stakeholder questions

https://nadp-uk.org/wp-content/uploads/2020/04/COVID-19-Stakeholder-Questions-v.3.pdf

- Disabled Students UK conducted two informal surveys of its members

Documents cited in the July 2020 update:

- OfS coronavirus briefing note on disabled students

https://www.officeforstudents.org.uk/publications/coronavirus-briefing-note-disabled-students/

- DSC report "Three Months to Make A Difference"

https://www.advance-he.ac.uk/knowledge-hub/three-months-make-difference

7. Disabled Students UK

Disabled Students UK is a grassroots disabled-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.

Website: www.disabledstudents.co.uk

July 2020