

PROPOSED CHANGES TO THE DISABLED STUDENTS' ALLOWANCES FOR ACADEMIC YEAR 2016/17

Disabled Students' Allowances in Academic Year 2016/17

The support available to disabled students in Wales is being reviewed following the announcement of changes to support arrangements in England. Your comments are invited on the proposed changes to the Disabled Students' Allowances (DSAs) from academic year (AY) 2016/17 as detailed in SFWIN 01/2015.

For each question please clarify what you consider the impact to be on disabled students.

1. Changes to the IT support:

Do you agree with the proposed changes to DSAs support for IT in AY16/17? Should disabled students contribute towards the costs of their assistive technology package? If so, what amount do you consider reasonable and why?

The National Deaf Children's Society (NDCS) Cymru is the national charity dedicated to creating a world without barriers for deaf children and young people. We support and represent the interests of deaf children and young people from birth through to 25 years old. In referring to "deaf" we refer to all levels of hearing loss, including mild, moderate, severe, profound and temporary hearing loss.

From the outset we wish to make clear that we feel this consultation on proposed changes to Disabled Students' Allowance in Wales is inadequate, unclear and has not been disseminated widely enough. It was not published on the main Welsh Government consultation pages. Third sector organisations representing the interests of young people with specific disabilities have not been included in the list of consultees. These organisations have in depth knowledge and expertise in the needs of students with specific disabilities and should have a voice in the consultation process.

NDCS Cymru would describe this as a limited engagement exercise rather than a full public consultation. Pushing ahead with changes that have the potential to significantly and negatively impact on disabled people without a full and proper consultation, in which disabled people are unable to give an informed response, is **potentially unlawful**.

A deaf young person legally challenged similar proposed changes in England. The Department for Business Innovation and Skills postponed its proposed changes, making any legal action unnecessary. However, this was after a Judge had already given the case permission to proceed to a full judicial review, making it clear that she was "not impressed" with the government's arguments that it did not need to carry out a full public consultation.

We are also dissatisfied that the consultation only includes a **summary** of the proposed changes rather than the complete proposals. This means that there is a lack of clarity on what is **actually** proposed, with consultation questions mentioning proposals that are **not** included within the consultation document.

For instance, in response to this particular question on IT support, you ask whether disabled students should contribute towards the cost of their assistive technology package. In the annex of the consultation document there is no mention at all of assistive technology other than computers or laptops.

NDCS Cymru seeks clarity on whether other types of assistive technology are included. Deaf students often rely on assistive technology, such as radio aids or personal hearing loop systems. Radio aids (sometimes known as FM systems) are used for amplification and to enable the deaf student to more easily follow the speech of a lecturer, tutor or fellow students. It is a vital element of support for many deaf students and the absence of any specific reference to other assistive technology devices in the consultation is worrying. It is unclear from the consultation document whether SFW proposes to restrict access to assistive technology such as radio aids or whether it will expect deaf students to contribute to the cost of radio aids.

In response to a query from NDCS Cymru you refer to the current Student Finance England policy on radio aids: *“Where a radio aid is needed to enable a hearing impaired/deaf student to access their studies, and it is unavailable from another source, then DSAs funding will be considered”*. Deaf students tend to only make use of these radio aids in education settings and they are therefore not available from other sources such as the NHS. We would strongly urge that the Student Finance Wales policy on radio aids states clearly that radio aids WILL be funded through DSA.

Deaf students often rely on a speech to text reporter (sometimes called a palantypist) who is providing a live verbatim transcript of a lecture or seminar. Some speech to text reporters work remotely i.e. they listen in to lectures and seminars via Skype and provide a live verbatim transcript via a web-link. Where a deaf student is using a remote speech to text reporter they will need a laptop or tablet with a high quality microphone to enable the speech to text reporter to follow the lecture. These types of laptops and tablet may therefore cost more. In this case we would argue that deaf students are using these laptops and tablets as an aid therefore students should not have to contribute towards their cost.

It is stated that IT support would not be funded “because of the way in which a course is delivered”. We would wish to clarify that IT equipment should still be funded if the way in which a course is inaccessible. For example, as outlined above a deaf student may require speech to text reporting for verbal delivery of a course – this may be in relation to live lectures or video lectures online.

2. Additional items such as printers and consumables:

Do you agree with the proposed changes? What is the impact likely to be on disabled students if these items are not automatically provided via DSAs?

Deaf students who use electronic note-takers or speech to text reporters will incur much higher printing costs than other students due to the length of transcripts provided. Therefore NDCS Cymru would argue that DSA funding should be made available in these circumstances.

We would welcome further information on what is meant by “IT Peripherals and consumables”, as this is not clear within the summary document.

3. Accommodation

Do you agree with the proposed changes to the support available from DSAs for additional accommodation costs?

We would strongly urge that the guidance includes clarity on reasonable adjustments expected for deaf students. In the case of accommodation this would include flashing doorbells and fire alarms and vibrating pads connected to the alarms. There should also be a duty on HEI’s to ensure that in Fire Evacuation procedures a named person is responsible for evacuating deaf people.

We would also welcome clarity on whether this proposed guidance will be statutory guidance.

Many students stay in university provided accommodation, such as halls of residence, in their first year and move to private, rented accommodation in other years. Under these proposals DSA funding will not be available to these students in their first year but may be available in subsequent years. NDCS Cymru is of the view that there needs to be clear messaging to students about eligibility to DSA funding for accommodation so that students are aware that their eligibility may change along with their living arrangements.

4. Non-medical Help

Should support from DSAs for non-medical help be limited and provided instead by institutions as part of their duties to provide reasonable adjustments under the Equality Act 2010?

The summary of changes is unclear as to what non-medical support will no longer be included in DSA funding. Note-taking, transcription or library or workshop support are mentioned, but there is no mention of communication support e.g. BSL interpreters and communication support workers. We seek clarity on whether interpreters, speech to text reporters and communication support workers are considered “specialised support” and therefore exempt from these proposals. We strongly urge that these vital services are still included within DSA funding.

All BSL interpreters and communication support workers should have an appropriate qualification in BSL. NDCS Cymru is concerned that HEIs will not necessarily be familiar with the BSL qualifications framework. NDCS has seen examples of deaf young people being supported by CSWs with a level 1 or 2 qualification in sign language, both of which are worth less than a GCSE and are not sufficient to meet a students’ needs. We believe that all communication support workers for a BSL user should hold **at least** a level 3 qualification, or higher if needed. All interpreters should hold at least a level 6 qualification in BSL. If this support is now expected to be provided by HEIs rather than DSA, it would be important that there is clear guidance to specify this as a clear expectation.

Note-takers are often crucial for deaf students and we would be concerned if they were to be removed from DSA and HEIs expected to provide note-takers as a reasonable adjustment. Some note-takers provide a summary of what has been said in a lecture or seminar. As mentioned earlier, speech to text reporters (palantypists) provide a live verbatim transcript of a lecture or seminar. The latter will be more beneficial to deaf students who want to follow what is being said as it is being said and/or for interactive lectures and discussions or who are likely to suffer concentration fatigue from lipreading for long lengths of time. Some speech to text reporters now work remotely – i.e. listen in via Skype and provide a live verbatim transcript via a web-link. They are likely to be more expensive than someone providing general notes via a laptop. We are extremely concerned that HEIs would not be able or willing to fund this support as a reasonable adjustment.

The proposals state that universities should provide their courses in ‘accessible ways’. This seems to suggest that students could just rely on lecture handouts. The problem is that these lecture handouts often do not have sufficient detail nor will they cover the answers to questions asked in lectures or summarise discussions. This is the kind of situation where a note-taker or speech to text reporter is essential for deaf students to have equality of access to the course.

NDCS Cymru is very concerned that there will be a significant impact on deaf students if DSA funding is withdrawn for note-takers. Under the Equality Act universities could argue that the cost of note-takers is not reasonable. Therefore it is imperative that statutory guidance is introduced for HEIs as well as additional funding to cover the costs of this additional support.

More generally, if it is proposed that responsibility for funding and identifying non-manual help is to be held by the HEI, NDCS Cymru would expect Student Finance

Wales to put in place some standards or specifications for qualifications that different roles should hold. Robust, clear and transparent complaints procedures must also be in place for students who are unhappy with the adjustments that have been made. Without such standards and complaints mechanisms, we are concerned that support available across different universities will vary.

5. Exceptional Case Process

Would the implementation of an exceptional case process address any concerns you have raised above?

NDCS Cymru welcomes an exceptional case process but seeks more information and clarity on the process that is proposed. We would need reassurance that, where there is disagreement over a reasonable adjustment, that deaf students would be provided with the support they need in a timely and urgent way.

NDCS Cymru is extremely concerned that where difficulties or disagreements arise, it will be left to the deaf student to push things along (when they should be focusing on their studies) and that matters will drift. We are concerned that many deaf students will be inclined not to pursue any difficulties because of their studies, lack of confidence or a desire not to cause a difficult relationship with the HEI where they are studying.

In a situation where there is a disagreement, NDCS Cymru would also expect DSA to be automatically issued if and until the HEI agrees and accept that they should make a reasonable adjustment. NDCS Cymru believes it would be unfair for the deaf student to pay the price for a failure for a HEI to agree whose responsibility it is to meet their needs.

6. Needs Assessment Fees

Do you agree with a cap on needs assessment fees paid via DSAs? What would be an appropriate level of cap? How else could the expenditure on fees be reduced without having a negative impact on disabled students?

NDCS Cymru seeks more clarity why SFW is proposing a cap on needs assessment fees paid via DSAs. We would seek to examine any evidence that has been gathered or analysis undertaken by SFW or the Welsh Government in relation to the disparity in the rates. It could be argued that some centres undertake a more in-depth assessment that may initially cost more but save money in the long run.

It is our understanding that the variation in fees may reflect many factors. The assessment fee has to cover the institution's costs in terms of the assessor's fee; the wages of administration and core staff; overheads and other financial costs. This will vary based on geographic location, the size of the centre and the staff employed. To cap these fees at an unrealistic level would potentially damage the needs of deaf and disabled students in the following ways:

- Some centres may pay their assessors much lower salaries. This might make it difficult to attract specialist assessors with the right background and training. Some centres largely employ generic assessors and this can lead to a limited understanding of the needs of some students. This would particularly affect deaf students, for whom specialist knowledge is essential.
- Some centres employ assessors on a casual, self-employed basis and this will be cheaper. This, however, does not necessarily guarantee good working conditions for the assessors or that the centre will be able to provide assessors with adequate training or support.
- Centres may cut back on administrative support. This could make the whole process of the DSA assessment less smooth and less user friendly for the student.
- Centres located in some cities or in some universities may have greater overhead costs than smaller private assessment centres. It is important that students have access to professional, accredited centres with good facilities, as this makes the process more user friendly and effective. Accessibility for a range of disabilities could be compromised if the building used is of poor quality.
- Some centres may provide a better quality of assessment follow up than others. There are often requests and queries over a period of time and sometimes assessors have to make additional recommendations. Capping fees might make it more difficult for assessment centres to provide this follow up service effectively.

The DSA process can be daunting for a lot of students, particularly those who do not have much support. Capping fees, if capped too low, could reduce accessibility for students, by making the whole process less professional, less supported and with reduced expertise. We suggest that the Welsh Government should examine the fees charged by accredited and well respected centres, listed on the DSA-QAG website before making a decision on whether to cap fees and, if the fees are to be

capped, at which level.

NDCS Cymru seeks clarity on how the DSA needs assessment is to be paid for and whether the cost is to be deducted from DSA money awarded to the student. We wish to ensure that changes to the system do not hinder a student's ability to access the quality of assessment that is required, but would be concerned about students losing large parts of their DSA allowance. We would, therefore, welcome more information and discussion with SFW on this matter.

7. The Assessment Process

How could the DSAs study needs assessment process be streamlined for students? Should the HEI's Disability Officer have a greater role in assessing the specific impact of a student's disability on their study at an earlier stage?

NDCS Cymru would welcome a more streamlined needs assessment process.

One of our main concerns about the proposed changes to DSA is that deaf students will be put in a position where they apply to HEIs without knowing for certain that they will provide the reasonable adjustments required. The likely impact is that the deaf student will have to invest considerable amounts of energy in identifying which HEIs will provide the necessary reasonable adjustments in advance of application or risk making an application to a HEI that will not then provide the support required. Given that students usually apply whilst preparing for their A Levels, the level of uncertainty and anxiety this introduces would amount to an unacceptable burden in our view. In order to ensure equality of opportunity for all disabled students they should be able to apply to ANY HEI and expect the appropriate support.

We would expect to see Welsh Government introducing new statutory duties on HEIs to provide the support that will no longer be provided through DSA. We would also expect a statutory duty on HEIs to be transparent about what support they will provide. There also needs to be clear means of redress for students if the HEI won't fund support. If the Welsh Government is unable or unwilling to introduce statutory duties on HEIs they should, at the very least, introduce minimum statutory standards to help avoid a postcode lottery and make compliance with the standards a condition of funding.

Once a student has been accepted to a HEI, there should be a duty on the person conducting the needs assessment process to consult with the student's previous education establishment/s, be it school or FE college or other setting, to have an awareness of the support previously provided for the student. This should include accessing the student's Statement of SEN or IEP or in the case of FE colleges their LSPs.

We would wish to see a process by which the HEI is expected to reply to the

assessor, Student Finance Wales or the student within specified timescales to confirm if they will or will not make the “suggested” reasonable adjustment. We would expect to see some form of agreement between DSA and the HEI what respective bodies will be responsible for covering. Ideally, such an agreement will be legally binding.

8. Any other comments

1. Ability of HEIs to make reasonable adjustments

We have grave concerns about whether HEIs are in a position to make reasonable adjustments to accommodate the needs of deaf students.

Deafness is a low incidence disability and HEIs are less likely to come into contact with deaf students and be familiar with their needs. There is also a complexity and diversity of needs within the deaf population; some deaf students communicate orally or through British Sign Language; some use hearing aids, others use cochlear implants; some have good language skills whilst others have a language deficit; and so on.

This case study from Scotland, cited in research carried out by the University of Edinburgh¹, illustrates some of the risks involved in relying on universities to provide appropriate support, and the need for clear means of redress if changes to DSA are made in Wales

Isla's story

In summer, as soon as she was accepted, Isla had a meeting with a disability advisor. Then in October she contacted the Disability Office once more to ask about support. She was told that the paperwork was being processed. During the following three months Isla had no communication support and no adjustments were made for her. She arrived early for lectures and asked tutors to wear the loop system microphone, but found that microphones rarely worked or tutors forgot to use them. In a laboratory session she asked to be allowed to sit at the front so she lipread, but the tutor was not supportive:

“She said to me, ‘well you just have to sit through it for this tutorial, this lab, but for the next time I’ll have you down the front’. Next time I went in, still hadn’t changed it.

¹ http://www.docs.hss.ed.ac.uk/education/creid/Reports/30iii_NDCS_PostSchTransit_FinalRpt.pdf

I was raging. I was like really angry.”

As time went by, Isla realised that she was missing out most of the content of her course. She dropped out at Christmas, just before she was due to hand in her first assignments.

“We had a couple of big papers coming up. I had started them. I had no idea where I was going with it. I e-mailed my tutor and said, ‘look I’m not coming back. I can’t, I can’t hear anybody so I can’t. He said, ‘I’m sorry to hear that’. That was it! I think I cried for days.”

After she dropped out of university her dad wrote a letter to the Disability Office listing their complaints. The Disability Office responded in writing:

“We got two letters back. One telling my dad that they need written consent for him to contact the University on behalf of me, although I had signed the bottom of the letter along with my dad! I think that constitutes written consent. The other one I got back was an eight page letter simplifying all the points that I had pointed out to them as to what they had done wrong, accusing me of being a liar! Saying that I had never been up to speak to them.”

There was no other contact between Isla or her parents and the university.

We do not believe that Isla’s experiences are atypical.

2. Portability of DSA

One advantage of DSA is that it is effectively transferrable from one HEI to another – i.e. it does not necessarily rely on HEIs being consistent in the support they provide to deaf students. The proposed changes therefore introduce another level of uncertainty and the summary fails to clarify how this will be managed. It introduces a new risk that deaf students will begin term without their support in place or without agreement with the HEI that they will or can make the necessary reasonable adjustments.

We would also welcome information on consideration given to learners from Wales who plan on attending university where these proposed changes are not in place – e.g. a university in Scotland.

3. Transparency

There are no proposals in this document to require HEIs to be transparent in describing what support they offer disabled students. As outlined in response to question 7 we would expect to see Welsh Government introducing new statutory duties on HEIs to provide the support that will no longer be provided through DSA. We would also expect a statutory duty on HEIs to be transparent about what support they will provide. If the Welsh Government is unwilling or unable to introduce statutory duties on HEIs they should, at the very least, introduce minimum statutory standards and ensuring that compliance is a condition of funding. HEIs must be

required to clearly outline what support is available before the Welsh Government and SFW proceeds with these changes.

4. Redress

NDCS Cymru would also wish to see a clear means of redress where a student's needs are not met. The failure to set out in the summary document a clear means of redress where reasonable adjustments are not made by the HEI risks putting disabled students in an intolerable situation where the support they need is not provided, leaving the student with little they can do about it. We would have expected to have seen this issue addressed before any changes are made to the DSA framework.

5. Additional Learning Needs Reform Bill

The White Paper on the Additional Learning Needs Reform, published in 2014, states that the Welsh Government will ensure that any proposals to modernise DSA will take account of the reform proposed in the White Paper. There is no evidence in the summary of proposals that this has happened.

NDCS Cymru believes that students aged up to 25 in HEIs should also be entitled to Individual Development Plans, as outlined in the White Paper.

Students in HEIs are not included in the proposals to reform ALN provision and support, on the basis that DSA already meets their need. This will put deaf students at a HEIs in an anomalous position compared to deaf students aged up to 25 at FE colleges who will be entitled to an IDP. Deaf students at FE college will have a number of legal rights against the college - specifically, the proposed Education Tribunal Wales will be able to hear appeals over disability discrimination or over the content of their plan and the support they require. We would strongly recommend that HEIs are brought under the scope of the proposed ALN Reform Bill or at least allow deaf HEI students to appeal to Tribunal.

6. Equality Impact Assessment

It is unclear what regard the Welsh Government has had for the impact of the proposals on disabled people. No equality impact assessment has published as part of these proposals. It is essential that an EIA is produced before proceeding with any changes.

The proposed changes to DSA risk putting deaf students in a position where they do not receive the support they need. The means of redress for a student in such a situation are inadequate. The proposals, if implemented, are likely to lead to a decline in the number of deaf HEI students or poorer outcomes for those who try to 'cope' in what is already a demanding learning environment.