# Education, Children and Young People Committee

## 5th Meeting, 2023 (Session 6), Wednesday 8 February 2023

## Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill

### Introduction

This morning, the Committee will hear evidence regarding the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill.

A SPICe briefing on the Bill is available online.

### Committee meeting

The Committee will be taking evidence from representatives from Further and Higher Education organisations, a trade union and a specialist school—

- Anne-Marie Sturrock, Vice Principal – Student Experience, Borders College, representing Colleges Scotland;
- Mike Corbett, National Official (Scotland), NASUWT;
- Dr Fiona Whelan, Assistant Director (Accessibility and Inclusion), Student Services at the University of St Andrews, representing Universities Scotland; and
- Louise Storie, The Donaldson Trust.

### Supporting information

A SPICe briefing, prepared for this session, is included in **Annexe A** of this paper.

NASUWT responded to the Committee's call for views on the Bill. Universities Scotland has provided a submission ahead of the meeting today. This is included at **Annexe B.**

**Education, Children and Young People Committee Clerking Team**
**03 February 2023**

Annexe A

# Education, Children and Young People Committee

# 8 February 2023

# Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill

## Introduction

The Committee has been designated the lead committee at Stage 1 consideration of the Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill. This Bill seeks to improve opportunities for disabled children and young people as they grow up. SPICe's Bill Briefing was published in December.

Last week, the Committee took evidence from a range of children's rights and advocacy organisations and from representatives of health professionals. This week, the Committee will take evidence from an education-focused panel.

As with the paper for last week, this paper is organised around three themes.

- The issues faced by children and their families as they move into adult services;
- How effective current policy approaches are in improving this; and
- The proposals in the Bill.

The paper draws on the work of the Committee so far, including informal sessions, last week's formal evidence session and the submissions the Committee has received.

# Transitions to adult services

The need to improve support for the transition from school and children's services to further and higher education, employment and the range of adult services is well-recognised in research and policy.

These issues were explored in a 2019 SPICe briefing, Transitions of Young People With Service and Care Needs Between Child and Adult Services in Scotland. That briefing explored evidence that suggested that transitions can be a difficult process for young people and their families. Policy reviews and research studies offered various recommendations to improve the transition process for young people. Recurring themes include the following:

- co-ordination and collaboration between services
- person-centred focus, involving the young person and their parents in decision making starting the transitions planning process early
- young people and their parents having a single point of contact
- increased information about available options
- more support for families
- dedicated transitions staff
- appropriate training for staff.

These themes have also surfaced during the Committee's work on this Bill.
Last week the Committee heard that a key barrier to successful transitions was that there were not enough services to meet the needs of young people as they came out of education, which means that there can be limited options. Planning was also thought to start too late to be able to build relationships with the young person and families.

Rebecca Scarlett, Senior Policy and Information Officer, LEAD Scotland said that even when there are places available at, for example, a college, young people were not able to get the support from wrap-around services such as transport to allow them to access the course. She also suggested that there is a lack of specialist colleges in Scotland and that disabled young people are being failed at this point in their lives.

The range of courses offered by colleges and the progression was also discussed. Andy Miller from the SCLD said that there is a focus on independent living courses, which are important, but that there needs to be more courses that disabled young people could access in relation to access to employment.

The first panel last week discussed the variability in outcomes and support for young people across different areas. It noted that as well as the variability of services the young people can access, other factors such as strategic buy in, and the skills and approaches of individual practitioners can make a difference. Dr Kandarp Joshi from the Royal College of Psychiatrists in Scotland said that the key barriers to successful outcomes are resources, culture, and better links between child and adult services. He also said that there is more awareness of transitions, and some good examples in relation to particular medical conditions, but that a wider culture change takes time.

Andy Miller also highlighted that the changes in services can also mean that certain elements of support will change or even lead to additional costs – the suite of information that parents and young people need can be wide and it is not always signposted.

Nicole Kane from the Royal College of Occupational Therapists said that geographically there is significant variability in when transitions take place, how this works and the quality of multi-agency working.

The representatives of health professionals suggested that the responsibility for supporting transitions too often falls on children's services, with not enough input, ownership from adult services.

Over the past two weeks, the Committee has undertaken two informal sessions with, respectively, disabled young people and parents of disabled young people. These sessions have reflected the barriers and recommendations identified in the bullet lists above.

Some of the themes from the young people included—

- There is good practice, eg: The Thistle Foundation's The Big Plan
- Plans can be too focused on a positive destination rather than being directed by the young person's hopes and desires
- The young people were not always listened to
- College experiences could be challenging
- Poor experiences through transitions have had long term effects on mental wellbeing
- SAAS Disabled Students' Allowance funding was helpful

Some of the themes from the Committee's session with parents included:

- The continuing need for parents to be the experts in the range of services their children might require
- The continuing need for parents to advocate on behalf of their children, while supporting the young person to become more independent
- Problems in relation to communication with a range of services, including colleges
- A lack of understanding of the needs of the individual, and resources put in place to support the young person
- The difference in the level of understanding of needs and support available while at school (or in children's services) compared to e.g. college.
- Some good practice, eg support from disability support team at university or a specific transitions support officer
- Little or no support for transitions for children not educated in a state school.

The submission from NASUWT stated—

> "Transition is a particularly difficult time because it exposes many of the weaknesses in the education, health and social care systems.

> Communication, effective and efficient sharing of information, along with effective joint working, are key to improving practice: however, these are also the areas which present the biggest challenges. Where communication and joint working are not effective, it often falls to schools to provide the support as best they can."

A theme of the sessions last week was the need to families and individuals to repeatedly explain their situation and needs. This is echoed in Universities Scotland's submission which stated—

> "We recognise that the current system requires young people to repeatedly disclose their disability as they transition between stages and providers of study, with their needs assessed and reassessed to suit different institutions and funding providers. This places a frustrating and repetitive burden on the individual. It would be preferable from the perspective of the person with a disability if there was a single, transferrable document that detailed their support needs or at least greater consistency in the information required by all bodies."

Another issue that the panel raised last week was that when individuals move from one local authority or health board area to another, the information about that person's needs and support can take some time to follow. Universities and Colleges will receive students from several local authorities. Universities Scotland's submission echoed this:

> "Progression to university can mean a relocation from one part of Scotland to another which adds another dimension to the need to coordinate transitions. As well as supporting transitions between stages of learning, between services designed for children and adults, there can be a geographic change too, requiring coordination across local authority areas. This is likely to be particularly challenging for a young person and their family to navigate. The transition between child and adult services is particularly an issue in relation to mental health services due to the pressure on these services. Whilst universities do have counselling services, some students will need more specialised/clinical mental health services beyond what the university can offer."

# Current policies and approaches

There are a number of pieces of legislation and policies which relate to the transition of a disabled child or young person as they move from children to adult services. Evidence from various reviews would suggest that application of these duties is patchy. Respondents to the Committee's call for views and witnesses last week identified an implementation gap between policy and practice.

The panel last week suggested some key ways in which the gap between policy intent and implementation could be closed; these included: better accountability and redress, a dedicated transition service, addressing the lack of provision available, and greater continuity of the service through child and adult services.

## *Scottish Transitions Forum*

Issues with transitions is a live and active area of policy development. The Scottish Transitions Forum has developed Principles of Good Transitions which includes seven principles of good transitions. These are:

- Principle 1: Planning and decision making should be carried out in a person-centred way.
- Principle 2: Support should be co-ordinated across all services.
- Principle 3: Planning should start early and continue at least to age 25.
- Principle 4: Young people should get the support they need.
- Principle 5: Young people and their families must have access to the information they need.
- Principle 6: Families need support.
- Principle 7: A continued focus on transitions across Scotland.

The Principles of Good Transitions say that these seven principles can be used by a wide range of public services, the third sector, and the private sector.

Following on from this, the STF developed a draft framework, Principles into Practice, to deliver improved transition planning and support. The Scottish Government is funding a Principles into Practice trial across ten local authorities in Scotland over a two-year period and is due to be completed in March 2023.
The Committee explored the impact of the work of the STF with the panels it heard from last week. The witnesses agreed that the principles are useful and relevant and widely endorsed. The impact and progress on the ground was less clear, although the Committee has heard about particularly good work in areas where Principles into Practice trials are taking place.

## *Independent Living Fund*

The Independent Living Fund Scotland disburses Scottish Government funding to support for disabled people in Scotland. The ILF includes a Transition Fund which provides grants to help young disabled people, between the ages of 16 and 25, with the transition after leaving school or children’s services to be: more independent; more active and engaged in their community; and to build and maintain relationships with other people.

## *Careers Information, Advice and Guidance service*

Skills Development Scotland runs the Careers Information, Advice and Guidance service as well as administering Scottish apprenticeships. CIAG should be in place in every secondary school in Scotland. Lee-Anne McAulay told the Committee that the links between the SDS and her school, the New Struan School, were good. Andy Miller from the SCLD said that in the past CIAG has not served the needs of disabled young people well; he characterised it as having “low expectations and low imagination”. Mr Miller noted the recent Career Review, which included recommendations in relation to supporting disabled young people; these were:

- For all career services across the ecosystem to adopt the social model of disability and embed shared standards of accessibility; meaning that all services focus on removing barriers from their services rather than mitigating them so that disabled people are included.

- Career services across the ecosystem should understand and embed the Principles of Good Transitions for young people with additional support needs, considering that key transition points may happen at different times for some.

## *GIRFEC*

Getting It Right for Every Child (GIRFEC) is Scotland's national policy approach to supporting children's wellbeing. The approach is based on the following principles:

- placing the child or young person and their family at the heart, and promoting choice, with full participation in decisions that affect them
- working together with families to enable a rights respecting, strengths based, inclusive approach
- understanding wellbeing as being about all areas of life including family, community and society
- valuing difference and ensuring everyone is treated fairly
- considering and addressing inequalities
- providing support for children, young people and families when they need it, until things get better, to help them to reach their full potential
- everyone working together in local areas and across Scotland to improve outcomes for children, young people and their families

GIRFEC covers a range of services and is the broad approach to support, where required, multi-agencies to work together to support a child's wellbeing. Local authorities' role in relation to GIRFEC includes support in areas such as school education and social work.

The approach of a proposed transition plan in the Bill would fit well with the aims and principles of GIRFEC. Dr Joshi told the Committee last week that, done well, a GIRFEC approach to transitions would support better outcomes. Sight Scotland’s submission agreed, it said—

> “It is also vital that a multi-agency approach is taken that uses the GIRFEC systems already in place with Local authorities around named persons to ensure transition is effective.”

## *Colleges and Universities*

The Higher Education Statistics Agency reported that in 2021/22, 7,200 Scottish-domiciled students at Scottish universities in their first year of degree study (both part and full time) had a known disability, 18% of the total. This is up from 13% in 2016/17. A further 1,805 first year degree students at Scottish Universities from outside of Scotland had a known disability in 2021/22.

In 2020/21 there were 41,435 students with a disability undertaking college courses in Scotland. This was 14.9% of the total which is up from 13.5% in 2016/17. Dedicated provision for those with ASN is available to further education students in all of Scotland's colleges. The support available is based the individual's needs and course choice. Each college support team would undertake an assessment. The help available can include:

- one-to-one support
- a note taker
- sign language interpreter
- classroom support
- proof reader

Colleges may also help with travel related costs.

Students undertaking courses of Higher Education at either college or university may apply for the Disabled Student Allowance (DSA). The DSA is a non-income assessed allowance to cover any extra costs incurred because of one's disability. The DSA could be used for equipment, one-to-one support or note-takers.

Universities rely on students self-declaring their disability although access to support would require an assessment and diagnosis. This contrasts with school education where additional support needs are assessed but there is no need for any formal diagnosis. These different approaches to identifying support needs can have individual-level effects. The submission from Universities Scotland said—

> "A difficulty that faces disabled students when transitioning to university centres around assessment and diagnosis. The Students Awards Agency for Scotland (SAAS) requires evidence of a diagnosis from e.g. a doctor or educational psychologist as part of the application for Disabled Students' Allowance. This is different to schools and SQA where, for example, a learning support teacher can diagnose dyslexia. This can lead to delays in accessing funding and students do not realise that this will be the case. Universities can help students get a diagnosis, but it is not immediate. This difference is a result of different approaches to support. For schools, the Additional Support for Learning Act guides support based on need without an emphasis on evidence or diagnosis. In universities, although we base support on need, there is a need for evidence/information and diagnosis is needed (particularly to access the Disabled Students' Allowance, which funds the support)."

## *Additional Support for Learning*

When local authority is responsible for a disabled person's school education, there are duties under the Education (Additional Support for Learning) Scotland Act 2004 in relation to supporting that child's education and then transitions into adult services.

However, the gap between the policy intention of the 2004 Act and the practice and support available has been a longstanding policy issue. Angela Morgan's 2020 report into the implementation of ASL policy. This said of the evidence it gathered—

> "[We found] examples of excellent practice, dedicated professionals, loving families and thriving children and young people. However, there were too many stories of struggle and shortfalls; frustration, anxiety and stress for children and young people and their families. Frontline practitioners, and those directly supporting them, told similar stories."

The key aspects of the Morgan Review were in relation to developing values, leadership and culture. Throughout the review is concerned with communication, good relationships and kindness in public service. In giving evidence Ms Morgan told the Session 5 Education and Skills Committee in November 2020 that the system can be "overly dependent" on "dedicated, skilled and inspiring professionals" which can mean that the service as a whole is "fragmented and inconsistent." (OR 18 Nov 2020 Col 2)

The Bill proposes a statutory planning process for transitions. Currently the only statutory plan in school education is the Co-ordinated Support Plan under the 2004 Act, although there are a range of non-statutory planning mechanisms used by local authorities intended to support the needs of children in schools.

Local authorities have a statutory duty to put in place a CSP if the statutory conditions are met. These are that a child has longstanding ASN arising from one or more complex factors or multiple factors which require significant additional support to be provided by more than one service. The CSP is seen as particularly important as it can open up additional routes of redress through the ASN tribunal.

After concerns that CSPs are under-used in local authorities, a short life working group was established and this reported in November 2021. This found "variations in awareness and understanding of the legislation, support and planning process" including in the purpose and statutory requirements on local authorities. The SLWG's findings will be familiar to the Committee in its work on this Bill so far; it made recommendations around:

- culture and relational approaches
- the availability and accessibility of information and guidance for children, young people, parents, carers and professionals
- ensuring sufficient resource is needed to provide time for genuine collaboration and multi-disciplinary planning and to support the delivery of agreed outcomes for children and young people

When the individual is finishing school, there is a duty to provide information regarding pupils with ASN to such agencies it "sees fit (if any)" (e.g. colleges); local authorities also are required to seek information from any agencies it "sees fit (if any)" to discover what support will be in place for the pupil after they leave school. These duties cover all pupils who have an ASN, but is limited by the words "sees fit (if any)"; i.e. the local authority may not see fit to exchange information with any agency about an individual child. More details on these duties are set out in the Additional Support for Learning (Changes in School Education) (Scotland) Regulations 2005, again the duties in the regulations are caveated and apply to "only

in relation to such children and young persons as the authority consider appropriate”.
Statutory guidance on the operation of the 2004 act recognised that applying these duties to every pupil with ASN would be burdensome. However, it states—

> “It will be for those working with the child to take into account the views of the parents and child, and the particular circumstances, to decide whether the duties described below apply; young people have the same rights as parents under the Act. Education authorities will wish to consider for each child or young person with additional support needs whether the transitional duties should apply. It is anticipated that the transitional duties will certainly apply to all those children and young people with additional support needs where one, or more, of the following circumstances apply. They:
>
> - have a co-ordinated support plan
> - are in a specialist placement such as an enhanced provision, a special unit or a special school
> - have additional support needs arising from a disability within the meaning of the Equality Act 2010
> - are otherwise at risk of not making a successful transition such as looked after children and young carers.”

Universities Scotland’s submission noted that the time to plan transitions for young people moving between schools and universities can be tight. It said—

> “If an applicant has a conditional offer, it will be confirmed in early August on SQA results day. Schools will be closed and teachers on leave and the university term starts early in September, leaving limited time to plan transitions.”

## *Social Work*

There are a number of social work duties that are applicable. For example, the Social Care (Self-Directed Support) Act 2013 seeks to ensure adults and children (including carers and young carers) are given more choice and control over how their social care needs are met. It also places a duty on local authorities to have regard to the general principles of involvement, informed choice, and collaboration when carrying out their social welfare responsibilities to both adults and children.

Andy Miller from the SCLD said that there is a “terrible dearth of social workers” which means that there are delays in assessing young people and this leads to delays in gaining support. A number of witnesses questioned why support for individuals with significant and complex needs was not available when services will be aware of these needs from early in the young person’s life.

# Proposals of the Bill

The Bill seeks to improve the lives and outcomes for disabled children and young people. Its proposals have three strands:

- A statutory national strategy
- A minister to be specified as being responsible for the transitions of children and young people
- A duty on local authorities to plan for disabled children and young people's transitions and a statutory process for this.

The overall aims of the Bill are broadly welcomed by respondents to the Committee's call for views.

The Committee explored with the panels last week whether the Bill is required to support better transitions and outcomes for disabled children and young people. A key reason to support the legislative approach was the element of accountability and redress the bill offered, albeit witnesses thought that this could be made clearer in the Bill. Section 13 provides for Ministers to make regulations about dispute resolutions in relation to the proposed transition plans.

The Bill would create additional duties on a range of bodies to comply with a National Strategy and in relation to the Transition Plans. Lee-Anne McAulay from Scottish Autism said that currently statutory duties were essential in how she effectively she is able to advocate for support for young people. However how the additional duties would interact with existing duties and plans was seen by some as clunky. LEAD Scotland argued that a simplified landscape along with a policy focus on improving practice, capacity and resources could help.

The NASUWT highlighted the problems of implementation of ASL legislation and duties. It said—

> "[The] Bill must be viewed through this lens and the Union would suggest it is explicitly set out:
>
> - how the framework will dovetail with ASN legislation and policy;
> - the mechanisms which will be in place to support equity of support and provision across Scotland; and
> - a clear outline of the investment and training being provided to support implementation."

Last week Dr Kandarp Joshi from the Royal College of Psychiatrists in Scotland also suggested that the Bill had been conceived prior to proposals for the National Care Service and may not link fully to a future health and social care service.

Lee-Anne McAulay from Scottish Autism said that the proposed Bill could be useful in supporting young people she works with who may not come under existing duties. The Bill proposes a planning mechanism that spans the period from when an individual is in school to, potentially, the age of 25. This is beyond the scope of the transitions duties under the 2004 Act.

## *National Strategy*

Part 1 of the Bill provides for a duty on Ministers to "prepare, publish and implement" a strategy "in relation to improving transitions to adulthood for children and young

people with a disability" (section 1(1)). This strategy is to be called the National Transitions Strategy.
The Bill provides that a National Transitions Strategy (NTS) must set out:

- aims and objectives of the NTS
- the actions Scottish Ministers will take to meet these aims and objectives
- outcomes that will be achieved through the NTS
- actions that bodies or individuals must undertake to meet the aims and objectives of the NTS
- details on the support and assistance that will be available to children and young people.

The concept of having a NTS is well-supported and the Scottish Government is currently developing non-statutory national strategy.

One of the more contested elements of the proposed NTS is that bodies would have a duty to comply with actions set out therein. In other words, duties could be created on a range of bodies through the publication of the NTS (including colleges and universities), rather than being approved by Parliament. COSLA has expressed concerns about this power. Universities Scotland's submission stated that it would "welcome the opportunity for any duties, should this legislation pass, to be combined in other reporting methods that the sector is obligated to respond to."

## *Who should the Bill cover and identification*

The Bill defines a child as a person under the age of 18, and a young person as being under the age of 26, i.e. between the ages of 18 and 25.

The Bill proposes that the duties under the Bill would apply to individuals who fall under the definition of disability in Section 6 of the Equality 2010 Act. This says—

> "A person (P) has a disability if—
> > (a) P has a physical or mental impairment, and
> > (b) the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities."

This is a legal test and statutory guidance on this definition noted that "in the vast majority of cases there is unlikely to be any doubt whether or not a person has or has had a disability" but in some cases it will not necessarily be clear. Iain Nisbet, a lawyer who specialises in education law, said in his submission—

> "The definition of disability by reference to Section 6 of the Equality Act 2010 is the correct approach, but it is not a clear dividing line. Using this definition does invite disputes as to whether a particular pupil is, in fact, disabled and therefore entitled to a plan. Any dispute resolution mechanism needs to be equipped to give a quick and definitive answer to this (complex) question. The Tribunal already deals with questions under the Equality Act 2010 and would be well placed to do so."

Currently local authorities have a duty to identify pupils' additional support needs. This is a different definition to that in the Equality Act and applies only to those pupils for whose education the local authority is responsible. Local authorities will be aware be aware of a high number of individuals who would meet the legal definition, through contact with education or social work. However, it is not clear how a local authority could identify every child or young person meeting the Equality Act definition of disability in their area. Section 7(1) provides for local authorities to undertake a transition plan for "each disabled child and young person within the local authority area".

As well as recording the number of pupils with additional support needs, and the reasons for that support, the annual pupil census reports on the number of young people who have been assessed or declared as disabled. In 2021, local authorities and grant-aided schools recorded 16,001 pupils as having been assessed as having a disability. A further 3,104 had been declared as having a disability, but not assessed as such. Of the total 19,105 pupils declared or assessed as disabled, 5,544 were attending a primary school (1.4% of the total pupils in primary school), 8,876 were in a secondary school (2.9%), and 4,685 in a special school (61.7%). There is a wide local variance in the identification and recording of disability within school records.

There is a disparity between the identification of disability in school records and the proportion identified in colleges and university (noted above). This could be because schools focus on identification of additional support needs, which has a different, and wider, definition.

The EHRC's submission argued that the Bill should "clarify the process for identifying children and young people eligible for a plan" to ensure consistency. Dr Kandarp Joshi also suggested that the Bill be clearer on the population it is aimed at, and that for example, the definition would cover every patient with a substantial mental health impairment for over twelve months.

The NASUWT's submission noted that the Bill may create statutory duties to support children and young people who have not disclosed their disability or who do not self-identify as disabled, but nonetheless fall under the definition of disability under the 2010 Act. The British Deaf Association Scotland noted that "the Deaf community do not see themselves as being disabled but as a linguistic and cultural minority" but whose needs should be considered in the Bill.

Dr Mairi Stark, Royal College of Paediatrics & Child Health, said that the initial focus should be to provide better support those individuals who are known and have clear needs before expanding the support more widely.

The representatives of health professionals last week argued for a universal needs assessment at around the age of 14 to help identify unmet need and that this would help identify where support in transitions would be required.

The size of the population the Bill covers is a key driver of the costs of implementation of the Bill.

## *Proposed planning process*

Part 2 of the Bill provides for a duty on local authorities to "prepare and implement a transitions plan for each child and young person with a disability within the local area" (section 7(1)).

The intention is that the local authority will be the body responsible for developing, reviewing and delivering the plan.

During both the initial preparation of a plan and the review process, the Bill provides that the local authority must consult with the child or young person, their parent/carers and potentially others. In doing so the local authority must have regard to the importance of communicating in an inclusive way. However, the Bill does not provide for an individual or family to not have a plan prepared.

Under section 7, local authorities are expected to implement transitions plans. Further, section 9 says:

> “A local authority must ensure each disabled child or young person within the local authority area receives the care and support necessary to meet the needs identified in the child’s or young person’s transitions plan.”

Exactly what this would mean in practice is unclear, particularly if the plan relies on, for example, a college or specialist medical support to support the young person to achieve their goals. The Financial Memorandum envisages on average around 1 hour would be required for follow-up action after a transitions plan meeting.

The plans will be managed by an officer of the local authority. While the individual is at school, the intention is that a teacher would develop the transition plans and a social worker would take on the duty to manage plans thereafter. A number witnesses last week argued for dedicated transition teams. They also highlighted how time-consuming the process is. Dr Mairi Stark Royal College of Paediatrics & Child Health said that the professional should be able to understand and communicate with all the areas to support the individual’s current and future needs. ALLIANCE’s submission noted that having a central plan could reduce the need to provide the same information across several services. Its submission stated—

> “ALLIANCE members have repeatedly highlighted the importance of holistic and coordinated support, and would welcome a central contact to support families through transitions. It is important that the person responsible for coordinating the plan has good knowledge of several services, and is able to share information with others.”

Sharing information must be done in line with overarching legislation. The ICO’s submission noted that the provisions of the Bill would require information sharing of “special category data” which is personal data that needs more protection because it is sensitive, e.g. data concerning health. This means that organisations sharing data will need to have both a lawful basis for processing under both Article 6 and Article 9 of UK GDPR.

Jenny Miller, Chief Executive, PAMIS, told the Committee last week that the Bill could be improved if it was more explicit on how it interacts with transitions in the health service.

Section 12 of the Bill allows for the Transition Plan to be "transferred to another relevant authority" during a review. The Explanatory Notes give the example of an individual moving to another local authority area. Although not wholly clear, this could also be read as being transferred to another type of service, which may be desirable if the young person's needs are largely health related. Section 12(7) provides for Ministers to make regulations on this matter.

The financial memorandum suggests that Transitions planning would be either not required or be minimal for over half of the people that it considered would be eligible for a transition plan (para 18 of the FM). This is because those people would enter employment or higher education.

Andy Miller from the SCLD said that the average time to develop and manage the plans is likely to be an underestimate as it does not take account of the complexity of arranging and delivering multi-agency meetings. The FM suggests that each meeting will require on average one hour of preparation and one hour of follow up, with the meeting itself taking around two hours and that there would be between two and four meetings a year. (para 50)

In relation to transition planning when the individual is at school, the FM stated—

> "Significantly, where the local authority officer is a guidance teacher, or other member of the child's school's pastoral care staff, and is responsible for preparing and managing the transitions plan, and for keeping it under review, while the child remains at school, the costs of the guidance teacher's, or other member of the school's pastoral care staff's, time would fall within existing resources on the basis that the local authority officer will already have existing pastoral duties for, and responsibilities for, the child." (Para 52)

The FM's modelling of the costs of transition planning once the young person has left school relies on a number of assumptions in relation to the level of support required and assumed attrition, "due to the fact that the transitions plans of some of the young people will be ended after a review because they have secured a positive destination, and other alternative sources of support are available, e.g. they are attending university" (para 68). Therefore, the FM states, "it is estimated that after 10 years the maximum caseload being carried by each local will be equivalent to 5 times the annual caseload [of school leavers]." The FM estimated these costs to come to—

> "Approximately £893,372 in Year 1 rising gradually to £4,467,360 in Year 10."

COSLA's submission for the current call for views focused on the FM. COSLA's submission indicated a cost of delivery estimate of over £9.5m from the first year of implementation – significantly higher than the estimates in the FM. It stated—

> "There are a number of assumptions regarding demand and implementation that underpin the figures and calculations presented in the Financial

> Memorandum (FM), some of which we believe result in an underestimation of the likely costs.”

And later it said—

> “In conclusion, the annual local authority costs presented in the FM are inaccurate and will actually be far higher than those quoted on page 15 “Summary of Costs; £894K, rising to £4.47M in Year 10”. If these are to be meaningful and useful plans, significant additional investment will be required.”

## *Available support and services*

In the Committee’s call for views, one of the critiques of the Bill has been that planning in itself will not create the opportunities and support required for disabled young people to flourish. A National Strategy could be a policy vehicle that improves those opportunities and support, but there would be likely be an additional resource requirement as well.

This was reflected in the evidence session last week where sufficient resources and a variety of options for disabled children and young people were highlighted. It was also noted that as healthcare has improved, more children with complex needs are now living longer. Dr Mairi Stark from the Royal College of Paediatrics & Child Health said that there are increasing numbers of children with physical and mental health needs.

In the context of ASL, the Morgan review noted that, while planning processes are important, they are a means to an end – ensuring the support is provided to the child. The review stated—

> “A very significant level of energy is being devoted to child planning processes. This complies with process targets, but does not necessarily result in active delivery of support. This causes disappointment, frustration and anger for children, young people, and their families and a sense of failure and helplessness for staff.” (p28)

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**3 February 2023**

The Scottish Parliament, Edinburgh, EH99 1SP [www.parliament.scot](http://www.parliament.scot)

Annexe B

# Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill

## Universities Scotland evidence to Education, Young People & Children Committee
## January 2023

Universities Scotland welcomes the opportunity to provide written evidence to the committee, ahead of the evidence session of Wednesday 8 February. Our evidence is based on input we have received from AMOSHE Scotland (the Student Services Organisation), the Heads of Scottish Disability Services and other feedback from institutions.

We endorse the intention and principle of the Bill, to support and improve transitions for disabled children and young people. We recognise that the current system requires young people to repeatedly disclose their disability as they transition between stages and providers of study, with their needs assessed and reassessed to suit different institutions and funding providers. This places a frustrating and repetitive burden on the individual. It would be preferable from the perspective of the person with a disability if there was a single, transferrable document that detailed their support needs or at least greater consistency in the information required by all bodies.

### The context to our evidence

In recent years, universities have been looking at how to improve the transition experience for all students, recognising that it can be daunting and that a successful transition experience supports a successful university experience. In addition, Universities Scotland is currently running a project looking at how universities can improve the experience of disabled applicants. We are hopeful that this work will support disabled students’ transitions into university from school, college or the workplace.

Universities work to support disabled students throughout their time at university and are always seeking feedback on how we can better support students. However, resources are a constraint. Arrangements need to be tailored to the individual, as well as sometimes to the institution, or degree programme or module within. Not all adjustments are academic, some may relate to, for example, accommodation.

The demand for support to all students have risen, unsurprisingly, in recent years. In addition to the pandemic, we know the cost-of-living crisis is difficult for students and will likely put disproportionately more pressure on disabled students. In addition, there has been an increased demand for mental health support in recent years from students. The additional funding for counsellors has been very welcome, but that funding is due to end shortly with no sign of reduced demands for university support services.

It is worth stating that this Bill would not include all disabled students at Scottish universities due to the upper age limit of 26. 38.3% of Scottish students with a known disability in 2020/21 were 25 or older[1]. Scottish universities welcome students of all ages from both Scotland and around the world. Even if the proposed Bill were to become legislation, universities would need to continue an additional system that works for disabled students beyond the scope of the Bill and so do not have transition plans as well as those who do.

Finally, we note that the Scottish Government intends to progress work in this area. Universities Scotland was contacted in January to join a working group to develop a national strategy on transitions for disabled young people.

Questions

The Committee posed a series of questions across two broad areas. We have answered the questions of relevance to the higher education sector.

Current experiences

**What are the key issues that disabled young people face as they move out of school/children's services and access adult services?**

We have focused on a number of key issues.

*The transition itself.* Our members' support teams for disabled students work predominantly with students with a specific learning difficulty, long-standing mental or physical health condition. They will also work with smaller numbers of students with a sensory impairment or physical disability. For most of those disabled students, there are no formal designated adult services.

The level of support will vary hugely depending on the school/college the student is coming from. Typically, most moving to higher education will get very little additional pro-active support with the onward transition from their previous institution.

The support required for a student starting university is likely to take a different form to support they have received in previous stages of study. Since university level study is more independent, with less structure, so different strategies and tools may be appropriate. For some students, this can mean that rather than a person supporting, there is a technological aid or strategy. Students may not expect these changes. At the same time, students at this stage are often making the adaptation to more independent living, which can present challenges to all learners, not just disabled students.

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[1] HESA Student FPE records; Calculation based on first year undergraduate entries to Scottish providers from Scottish domiciled students, known to have declared a disability.

*Timings.* There is also an issue around the timing of transitions due to the short window between SQA results day and the start of the university term, which can create an issue around making transitions work optimally. It can be difficult to share information to assist with transitions. If an applicant has a conditional offer, it will be confirmed in early August on SQA results day. Schools will be closed and teachers on leave and the university term starts early in September, leaving limited time to plan transitions. Both new and returning disabled students may need support at the start of the academic year, which leads to a high level of demand on disability support offices. This can mean longer waiting times for support, which can be frustrating for students, especially new students who may not anticipate this level of demand for services.

There remains some stigma around disclosing disability, and there are challenges if young people declare a disability close to the start of term or after the start of term because this may result in a delay to the provision of support. The recent SAAS Review of Disability Related Student Support in Further and Higher Education also references these issues.

We note that SAAS is making some changes to its services as a result, including developing an online application process for the disabled students’ allowance, which we hope will increase its accessibility and speed the process up.

*Changes in assessment of disability.* A difficulty that faces disabled students when transitioning to university centres around assessment and diagnosis. The Students Awards Agency for Scotland (SAAS) requires evidence of a diagnosis from e.g. a doctor or educational psychologist as part of the application for Disabled Students' Allowance. This is different to schools and SQA where, for example, a learning support teacher can diagnose dyslexia. This can lead to delays in accessing funding and students do not realise that this will be the case. Universities can help students get a diagnosis, but it is not immediate. This difference is a result of different approaches to support. For schools, the Additional Support for Learning Act guides support based on need without an emphasis on evidence or diagnosis. In universities, although we base support on need, there is a need for evidence/information and diagnosis is needed (particularly to access the Disabled Students’ Allowance, which funds the support).

Students must apply for funding and organise support themselves, with support from the university. This transition to advocating for the support oneself can be difficult for students to manage.

The agreed learning adjustment arrangements need to be communicated appropriately to those who can action them (e.g., to module leaders, tutors, those with responsibility for examination arrangements). This can take some time, with resultant delays in actioning adjustments.

*Location.* Progression to university can mean a relocation from one part of Scotland to another which adds another dimension to the need to coordinate transitions. As well as supporting transitions between stages of learning, between services designed for children and adults, there can be a geographic change too, requiring coordination across local authority areas. This is likely to be particularly challenging for a young person and their family to navigate. The transition between child and adult services is particularly an issue in relation to mental health services due to the pressure on these services. Whilst universities do have counselling services, some students will need more specialised/clinical mental health services beyond what the university can offer.

It should be noted that international students with disabilities are not eligible for Disabled Students’ Allowance, which is challenging for institutions.

**How are young people and (where appropriate) their families views’ taken account during the transitions process?**

University students are usually adults (aged 18 years and above) and the contractual agreement for study is between the institution and the student. As a consequence there is little direct engagement between the institution and the student's parents or family. However, it is entirely at the student's discretion to involve their family in decision-making about their needs. Students’ views are key to planning their support.

**How do schools, colleges and universities identify students with disabilities currently?**

There are multiple opportunities throughout the admissions process for university entry for a student to disclose a disability. This must be done voluntarily.

Application forms (including UCAS) have a specific question on disability. However, students can declare a disability at any point and to any member of staff. Students will also be able to disclose via amending their personal data in the university online system.

From a university perspective, earlier disclosure can help with transition arrangements, but we recognise that some applicants have concerns about how universities will use this information. Our disabled applicants work has identified that there may be more for universities to do to explain how disclosing disability status will help the applicant and providing reassurance that this information will only be used to their benefit.

Some students will choose not to engage with disability services at the start of their course but may ask for adjustments at a later date. Universities will respond to a request for support at any stage during a student’s journey.

**How do schools, colleges and universities ensure that reasonable adjustments are made?**

As disclosure is a pre-requisite, the students themselves are central to the process of making reasonable adjustments. Their input is vital to ensuring their support and development as autonomous, independent learners.

Specific arrangements will vary between institutions, but typically all will undertake outreach work with applicants and aim to work with as many new students as possible, although experience suggests that some students will not prioritise reestablishing support arrangements or will not want to and their support will only be confirmed later during their course.

When students alert the university through the application process about their disability the information is passed to the Student Disability Service who will contact the students. As adults, it is up to the student to respond to / request support from Disability Teams. Not all disabled students feel that they need or want support. Those that do are assessed by specialist staff for reasonable adjustments. This happens throughout the year but there is an undeniable – and often unmanageable – peak at the start of term.

Universities use Disabled Students’ Allowance (DSA) funding to fund the support put in place for the students. As mentioned previously, international students and part time students do not qualify for DSA payments which is challenging and inequitable for these students as universities struggle to cover the costs for adaptions and support for non-qualifying students.

As noted above, applications for DSA require documentary evidence from medical professionals in order to progress a claim. As this level of evidence is not required by schools it may not exist for the student which can cause unnecessary delays. Universities are able to help with diagnostic assessments for specific learning disabilities either via external providers or in-house expertise, but requests to GPs for medical evidence can put pressure on NHS services. Moreover, there are lengthy weighting lists of 18+ months for diagnosing some disabilities such as autism and ADHD. While universities can implement reasonable adjustments internally, students may miss out on critical support provided by the DSA.

Unfortunately, there is no data sharing arrangement between SAAS, as the body responsible for processing DSA, and universities and so universities are only made aware of the outcome of a student’s application via the student themselves. Not only does this puts the burden on the student, it can lead to delays in the implementation of a full support package where a student may struggle to understand or set up the support awarded. Currently, other funding bodies including Student Finance England, Student Finance Wales and Student Finance Northern Ireland do notify Disability Advisers of awards directly, suggesting there is no obstacle, based in data protection legislation, preventing this from happening in Scotland. It would be very beneficial to disabled people and universities if SAAS could align with the process as run elsewhere in the UK.

Universities will have contacts in each department to ensure that the adjustments are understood and implemented as required in programmes and modules.

**How is retention of disabled students at colleges and universities monitored?**

Retention is monitored for all students and is ultimately recorded in HESA data. Universities monitor engagement and planned attendance of all students. This data can be disaggregated and analysed by student demographics including all protected characteristics, including disability.

The Scottish Funding Council (SFC) review and publish data on disabled students as part of their Widening Access Report.

**How do colleges and universities collaborate with other services, (e.g. health or social work) to support individuals?**

Our members have said this tends to be on a case by case basis and is infrequent. Typically, it happens where the level of support the student requires is significant and the other agencies will remain actively involved during the new course, when collaboration is instigated by the other service or where the student is at significant risk.

Universities may engage with health services in regard to referrals to services, support for students etc. However, universities are unable to make direct referrals from university to most Health Services (including mental health) which can be problematic.

There are two pilot projects exploring referrals from universities to NHS mental health services in local health bodies. There has been some wider work to attempt to better join up mental health services and universities, but progress has been slow.

Some local authorities do not contact universities in advance and can misunderstand the support a university will be able to provide or should provide for a higher education level course. There is limited understanding of HE level support and how it can/should dovetail with other support packages.

**How successful has the work of the Scottish Transitions Forum been in improving transitions processes for students?**

Our members do not feel they have sufficient experience of the forum to offer a comment.

**How are disabled students supported if they complete a course or leave a course early?**

Disabled students have access to the full range of careers and employability support from their institution. There are also careers services for graduates.

Support for disabled graduates, whatever point they left their course, is becoming a higher priority for university disability and careers services, with external specialist agencies such as EmployAbility also active in this area.

**How would you measure success of a transition at an individual level? How might you measure the success of outcomes for disabled young people at a national level?**

Retention, progression and attainment rates are already measured and reported in universities' mainstreaming reports. Softer measures around student satisfaction (e.g., from the National Student Survey) might be a valuable addition.

Other measurements could include:

- Graduate outcomes data would also be useful and is available.
- National progression data could be significant, especially for groups that continue to be under-represented, such as students with a sensory impairment.
- HESA statistics measure attainment gaps between disabled / non-disabled students (which the SFC currently publish at a sector level).

We would suggest asking disabled young people what they consider ‘success’ to look like in relation to transition to higher education. Grades will only tell you a limited story.

The Bill

**Would a national transitions strategy support more consistent approaches and better outcomes? If so, how?**

An alternative approach, which the committee might wish to give consideration to, is a universal design for learning. This model, which gives all individuals equal opportunities to learn, already exists in Ireland with disabled student support integrated and mainstreamed as far as possible so most needs for most students are met by design. This would build on work by universities, including Glasgow Caledonian and Edinburgh Napier.

This approach would support a large number of disabled students, but more complex cases would still need to be managed via Disability Teams.

A national transitions strategy would ensure disabled students are entitled to a good level of supported transition. However, there will inevitably be inconsistencies in how that support is applied because of different student needs and how that interacts with where in Scotland the student is studying, what degree they are undertaking and the physical built environment.

A particular feature of higher education sees students attending university who may be leaving their local authority area for the first time. We can see the benefits in having a consistent approach as our members have the potential to be interacting with 32 different local authorities, which has the potential to be bureaucratically burdensome if transition plans are different across local authorities.

This national strategy should not put more administrative burden on disability support services. Ultimately, that could result in worse support for students. The committee should consider that resource constraints will mean that there are limits on what is possible.

**Comments on the powers to create duties on colleges and universities.**

Duties are a feature of the work that universities are involved in. Given the already numerous reporting mechanisms such as The Public Sector Equality Duty that apply to the sector. We would welcome the opportunity for any duties, should this legislation pass, to be combined in other reporting methods that the sector is obligated to respond to.

**How would plans be managed while the pupil is at school?**

Without sufficient detail at this stage, we are unable to comment.

**Colleges and universities' views on how they would engage with the planning process or be able to respond to any plans already agreed.**

The Bill envisages multi-agency collaboration to support implementation of a student's transition plan. This will be challenging for institutions receiving students across multiple local council and health regions.

The timing could also be challenging. Colleges and universities will focus their work on engagement with new students over the summer (when school staff are typically on leave) and then at the point of entry, when schools – and also colleges and universities - are at their busiest. Many young people will not have a confirmed next step until after the SQA results are released early August, meaning a lot of this work will have to fit into this three or four week gap if it is to be meaningful.

It might be helpful to review disabled student funding and trial providing funding to institutions to use for students, which would remove the burden (for students and staff) of individual applications and speed up the provision of support

**Should local authorities take the lead on planning transitions? In all cases?**

This would depend on the needs of the young person, but it is not clear to us that the local authority, at this juncture, would have the expertise to plan transition support into university. However, it may be appropriate in some complex cases. There is a need for joined up support across local authorities to ensure that care and support packages in place in one local authority are appropriately communicated and implemented by the local authority where the university is situated. It is challenging when universities are expected to fill that gap in local authority support.

It would need to be a joint effort between agencies linking in Local Authorities, Health and Education. Most Health and Social Care Partnerships do not link with the university sector in practice.

It is also important to recognise that not all disabled students will come directly from school and some that do will not come from a Scottish local authority school.

**How should/can local authorities identify children and young people eligible for a transitions plan?**

Currently students are asked to self-declare their disability to their university (either during the application cycle or any subsequent stage). There is not at present a national mechanism for schools/local authorities to do so and even then, there may be data protection issues in sharing this between organisations.

Teachers sometimes mention disability as a context for achievement in a student's academic reference. However, this can be missed, and any disability may not be mentioned. UCAS are reviewing and updating their application system, and this could change the academic reference for those students applying via UCAS (most full-time undergraduates and some other students).

**To what degree does part two of the Bill replicate duties under ASL or social work (eg SDS) legislation? What are the reasons for the gap between implementation of policy and duties and experiences?**

We do not believe we have the experience as a sector to offer an opinion on this question.

**To what degree (and how) would a statutory planning process support better outcomes for disabled children and young people?**

Only some disabled young people enter university and therefore we can only comment on the likely impact on these disabled young people.

The process would need to be well implemented, with all parties understanding their responsibilities. It would need to be workable for universities who will have students from many different local authorities, with different needs. The process would need to recognise that different support may be appropriate at different stages of education and that the financial support arrangements vary between schools, FE level and HE level courses.

It might be more helpful for schools to be better aware of the different process to receive support for disabled students should they apply for university. This would be helpful, particularly the need for a formal diagnosis to access disabled students' allowance. SAAS might be well placed to do this alongside any existing work with schools to promote applications to SAAS for students entering university or HE courses in college. It might also be helpful to have a specific named contact in the university/clear information about who to contact – this is something that our own project on disabled applicants will encourage.