Dear Christina,

Thank you for the opportunity to respond to the Committee’s pre-budget scrutiny report (2017-18) in respect of disabilities and universities. I have considered the issues raised by the Committee and associated recommendations made in the report published on 23rd January. Comments in response are set out at Annex A.

I very much welcome the work of the Committee to examine the issues facing disabled students in higher education. I appreciate that this has involved extensive evidence gathering to seek views and information from a wide range of individuals involved in the higher education sector and also students themselves, which is absolutely key to helping inform how improvements and better support for disabled students can be made.

I am pleased to say that equality is at the heart of the ambition behind everything that this government does. We want the chance to study at university to be open to everyone and we are firmly committed to delivering on that.

I recognise that this Report contains a comprehensive range of recommendations for change, some of which extend beyond the direct influence of the Scottish Government and its agencies. Indeed a number of the proposed recommendations relate directly to current institutional practices. As well as looking to take forward the actions which this government can deliver on directly, I will consider with my officials, how we can work with the SFC, institutions and stakeholders to assist them in delivering those recommendations where they are best placed to do so.

I will be happy to provide an update to the Committee on how work linked to progressing the recommendations in this report is progressing.

SHIRLEY-ANNE SOMERVILLE
ANNEX A – EQUALITIES AND HUMAN RIGHTS COMMITTEE – PRE BUDGET SCRUTINY 2017–2018

SCOTTISH GOVERNMENT RESPONSE TO RECOMMENDATIONS IN THE REPORT ‘DISABILITIES AND UNIVERSITIES’

EHRiC Report Recommendations 26 and 27

26. In light of this, we recommend the Scottish Government and Scottish Funding Council, and the wider Scottish education sector, should take active steps to develop a more integrated approach to progress the widening access agenda in terms of eliminating inequalities and tackling prejudice. This applies not just for those from a socioeconomically disadvantaged background, but across all the protected characteristics, including those facing disabled people and BSL users.

27. Such an approach should include addressing attainment gaps at second level education as well as developing and promoting pathways to third level education, especially to studying at universities. Such an integrated approach should aim to be delivered over the five-year life of the current Parliament, (Session 5 budget cycle Financial Year 2017/18 to Financial Year 2021/22).

The Scottish Government agrees with this recommendation, and aims to develop a more integrated approach to access for all learners. The Commission on Widening Access made clear the need for a system wide approach to access and made a number of recommendations to achieve this, including: the appointment of a Commissioner for Fair Access (Recommendation 1); the development of a Framework for Fair Access to share and build our knowledge of best practice (Recommendation 2); enhanced analyses and sharing of data on fair access (Recommendations 29 & 30); and a more coordinated approach to access across the education sector (Recommendation 4). Although the Commission’s recommendations were primarily focussed on access for those from socioeconomically deprived backgrounds or those with a care experience, the Commission made clear that such recommendations could also assist other groups of learners and that those implementing them should do so in a way that recognises this. Work to implement the recommendations from the Commission sits alongside related work to close the school attainment gap and to review the effectiveness and efficiency of the 15-24 Learner Journey.

EHRiC Report Recommendation 29. We believe clearer identification is needed of the level of funding which tackles inequality and supports initiatives to address the issues we have identified in this report. The Scottish Government and universities should work to more clearly identify what levels of public spending are assigned to support equalities in future budget allocations to universities.

The Scottish Government notes the committee’s recommendation and will give further consideration to this when future budgets are set. However, with over £1 billion of direct investment made in our universities in each of the past six years, we would expect this level of investment to deliver positive outcomes for all learners in an equitable way.

EHRIC Report Recommendations 32, 33 and 38

32. We recommend that the next round of 3-year Outcome Agreements between the Scottish Funding Council and universities (2017-2020) should provide a platform for developing and implementing a more integrated programme of policy initiatives to ensure the proper mainstreaming of equalities across the entire university sector.
Future budget expenditure delivered through the SFC should be aligned to support and deliver such a programme.

33. This work should also be more clearly aligned with the National Performance Framework. This would allow a focus on linking the delivery of equalities and rights-based policies to the practical economic and social needs of Scotland, especially in moving the economy to a stronger position to deal with the implications of continuing pressure on public spending, or the yet to be identified economic legal and social challenges of Brexit.

38. We recommend that a more coherent and transparent link be made between HEIs' equality commitments and their Outcome Agreements with the Scottish Funding Council. In reflecting equality commitments in Outcome Agreements, universities should seek to more clearly link the delivery of rights-based equality policies to the Scottish Government's preventative spending agenda by seeking to remove barriers which prevent disabled people, BSL users and others with protected characteristics from achieving paid employment. Such action could also serve to mitigate the chances of future penalties for present failures, such as future compensation payments by universities to individuals whose statutory rights they did not meet in terms of equal treatment and discrimination.

The SFC has been working with institutions on their equality data and commitments in the 2017-20 Outcome Agreements which are at their near final stages and they have seen good progress in this area with a stronger emphasis compared to the last set of Outcome Agreements. They will continue to progress this as per the Committee's recommendation and will monitor progress, making connections with related performance measurement frameworks, including the National Performance Framework.

EHRiC Report Recommendations 43 and 44

43. While many universities offer staff training on equalities, human rights and the statutory duties applying to them as part of continuous professional development, much of this seems to be on a voluntary basis. We are of the view that the Scottish Government and universities must now work to move from a voluntary to a mandatory position on rights-based equalities training as part of academic-wide continuous professional development, and set out a realistic timetable for this work.

44. We also recommend the remit, staffing and budget support of the Fair Access Commissioner should reflect this work and be tailored to allow the Commissioner to play a key co-ordinating role across higher education in promoting understanding of a statutory rights-based approach, helping to implement change and monitoring outcomes.

The Scottish Government agrees with the importance of university staff having appropriate training in equalities and human rights matters and recognises the benefits that such training brings not just to HEIs as a whole but to their students and staff as well. However, as autonomous institutions the training and awareness of staff within a university is a matter for the institution themselves. It is also for universities to ensure that they comply with any statutory duties the Public Sector Equality Duty places upon them and to meet any requirements for reporting/monitoring of information.
The NUS ‘Think Positive’ project, which is funded by the Scottish Government, features the development of Student Mental Health Agreements (SMHAs), which provide a framework for universities and colleges to build strong support for students and staff around mental health. The SMHAs encourages staff to review existing policy and staff training and consider improvements which could have a positive effect on the staff and student experience. The aim of this is to ensure that anyone experiencing mental ill-health can continue in their studies without facing stigma or discrimination. NUS has already worked with a number of institutions who have found implementing the SMHA a valuable process and one which has led to further projects and successful initiatives.

EHRIc Report Recommendations 55, 56, 59 and 75

55. Greater transparency is required across the entire university applications process in order to ensure fairness and provide confidence. This is of critical importance for disabled applicants, but also for all those seeking to apply to attend a Scottish university. We recommend the Scottish Funding Council take the opportunity of the review of the applications system recommended by the Commission on Widening Access to address issues around inconsistency of approach and lack of transparency by universities.

56. We recommend that all Scottish universities adopt a common approach to providing detailed feedback to unsuccessful disabled and BSL applicants. Admissions feedback should also be mindful of the de-motivational (and potentially damaging) impact the detail, tone and delivery of feedback may have on the confidence and wellbeing of disabled applicants, especially if applicants have already had to overcome major societal barriers to reach a point of applying to a university to begin with. Again, this approach should be explored in relation to all applicants and be centred on providing positive feedback in terms of explaining the reasons for an unsuccessful application.

59. Universities are increasingly taking a “contextualised” approach to applications from under-represented groups, recognising the wider achievement and potential of non-traditional applicants. This approach should be extended to disabled people and BSL users applying to study at Scottish universities.

75. The approach to admissions taken by individual universities must take account of the needs of certain disabled applicants to remain within an established geographical area because of the nature of their care support requirements, thereby limiting the number of universities they may reasonably be able to apply to or attend. Such considerations should be given weighting in the admissions process for such disabled students.

The Scottish Government is supportive of work to improve the transparency and understanding of the admissions process for prospective students and their key influencers. In line with the recommendations of the Commission on Widening Access (CoWA), the SFC will take forward work to review processes used to evaluate non-academic factors in applications.

The Scottish Funding Council is also fully engaging with the Universities Scotland work stream to help progress CoWA recommendations relating to admissions. The Scottish Government will ensure that Universities Scotland is aware of the EHRIc’s recommendations on this area and will request that these are factored into its work relating to admissions.
As for any group of learners, careful consideration should be given to the specific barriers faced by those with a disability when trying to access higher education and the most appropriate interventions that can assist them.

EHRiC Recommendation 57. We recommend the Scottish Government’s Review of Student Support that is due to report in autumn 2017 must examine the issues highlighted in evidence to us around the Disabled Student Allowance, support with the costs of housing for disabled students, and the provision of a grants-based system of student support in place of the current student loans model. The Review must also consider the issue of transition for disabled students from secondary to university level education.

The Review of Further (FE) and Higher Education (HE) Student Support has a remit to ensure that the entire system is equitable, fair and supports all students throughout their learner journey. The Review’s remit focusses particularly on ensuring the most effective support for the poorest and most vulnerable students, including disabled students, and it’s very important that their voices are heard.

From the outset, the Chair of the Review and CEO of Virgin Money, Jayne-Anne Gadhia, has been keen to meet with students and listen to their views and hear about their experiences. Indeed a number of face-to-face discussions have already taken place with Jayne-Anne and students on various campuses across the country. This has been supplemented by a series of focus groups which are continuing over the coming months. The Review will report in the autumn, with interim findings due at the end of May.

EHRiC Report Recommendations 58, 67 and 68

58. The Scottish Government, UCAS and Scottish universities must ensure the university applications process complies with statutory equality duties to make reasonable adjustments e.g. allowing applicants to make applicants in the most appropriate medium. For example, offering the option to submit applications in BSL video or spoken form where appropriate.

67. We recommend the Scottish Funding Council and the Fair Access Commissioner oversee the coordination of a sector-wide strategy to ensure universities meet their requirements under the British Sign Language (Scotland) Act. This should be reflected in the 2017-2020 Outcome Agreement cycle.

68. As a minimum, all universities in Scotland should have clearly accessible video information about their institutions, academic courses, student life and support facilities in British Sign Language on their websites/social media platforms etc., by no later than the start of academic year 2019/20.

The Scottish Government agrees that Universities and UCAS must be cognisant of their requirements under the Equality Act 2010 and BSL (Scotland Act) and adopt a proactive approach putting reasonable adjustments in place, including ensuring that students have the opportunity to provide and access information in the format most suited to their individual needs.

The SFC is represented on the National Advisory Group for BSL. They are working on their response to the Scottish Government consultation on this and are encouraging colleges and universities to respond.
However, as autonomous institutions it is ultimately up to the HEIs themselves to consider how best to meet their statutory obligations under these acts.

**EHRiC Report Recommendation 76.** The provisions we suggest for increased data collection amongst the Scottish university sector must specifically include work on identifying and understanding any correlations between the stress and anxiety experienced by disabled students/students who are BSL users and levels of mental ill-health, self-harm or suicide. More focus also needs to be applied to developing early alert systems to identify students who are struggling and are at increased risk dropping out of university before completing their course. This is especially necessary for students with additional support needs.

Universities have their own systems in place for data gathering. This is used to inform procedures and support for students who are experiencing mental health symptoms. The Scottish Government recognises however that supporting early intervention to mental health is key and so this features at the heart of Scotland’s new ten-year Mental Health Strategy. The ‘Mental Health Strategy 2017-2027’ was informed by nearly 600 responses received to a public consultation and developed with input from local authorities and NHS Boards. It has been fundamentally shaped by the feedback from organisations and service users, and all of their views have demonstrated passion and the need for change for all, and this includes students.

**EHRiC Report Recommendation 77.** The Scottish Government must seek to put in place an integrated mental health support structure between universities, the NHS and individual GPs to ensure continuity of support. Strong consideration should be given to establishing a dedicated funding stream within the overall Scottish Funding Council allocation to universities, or between universities and NHS Scotland to assess and deliver this work.

The Scottish Government’s recently published Mental Health Strategy has been developed in the context of the Scottish Government’s 2020 Vision for health and social care delivery, which emphasises integrated care and prevention, anticipation and supported self-management. It recognises that students in both further and higher education settings face some unique challenges and recognises that we must ensure a consistent level of support for mental health across the country. Funding provided to NHS Boards is intended to provide clinical services to meet the needs of their local populations and our expectation is that people are treated appropriately and timeously according to their clinically assessed need.

It also recognises that educational institutions can provide opportunities to help address stigma and discrimination, and to support efforts towards self-management. The Scottish Government has worked with the National Union of Students (NUS) on their mental health programme ‘Think Positive’, and we have funded £100,000 to develop and deliver this. We will carefully consider how this can be further developed going forward, to bring about benefits for all and specifically the most vulnerable students at risk.

A separate funding stream with the Scottish Funding Council (SFC) allocations will require further consideration and we will discuss this with the SFC and officials who lead on Mental Health policy in the Scottish Government.
EHRiC Report Recommendation 78. We recommend a greater focus be given to developing dedicated support structures for students with two or more impairments, in order to provide more opportunity for them to study at university, and take full advantage of the benefits of university life. Such systems must seek to maintain the levels of support provided to students in secondary education. It is also vital that Scottish universities learn from best practice of other higher education institutions where they have been successful in creating a supportive environment to attract disabled students, for example, the work done by the University of Central Lancashire, based at Preston, in attracting BSL students.

The Scottish Government agrees that universities should proactively seek out examples of best practice that they could adopt within their own institutions and that the SFC and Universities Scotland should give further consideration as to the best way for positive examples of best practice to be shared across the sector.

EHRiC Report Recommendations 79, 86, 87 and 88

79. We recommend the development of an integrated equalities data collection system to make specific provision for assessing the true impact of mental health issues on retention and completion rates for disabled people and BSL users, as well as a full assessment of level of self-harm and suicide amongst such students.

86. We are concerned at the lack of necessary data available in key areas, such as equalities data on school attainment and mainstreaming policies for engaging disabled and BSL students to transition from second level education into university. There are also key shortcomings in the level and quality of data collected on the university applications process and on retention and completion rates among disabled people and BSL users studying at university. This is also true for understanding non-academic experiences for example access to social and cultural life at university, duty of care issues, mental health and wellbeing and pathways from universities to employment and secure independent living in society.

87. We acknowledge that collating and analysing such a wide variety of data from across such a wide ranging area is a challenging objective. Nevertheless, at present we cannot see how the Scottish Government and the university sector can hope to achieve the equalities outcomes which have been set [such as seeking to implement the UN Convention on the Rights of People with Disabilities], or to assess the success of equality policy, without a clear picture of what is happening on the ground. Quality data collection and analysis, to a uniform standard across Scotland, is vital to this effort.

88. We recommend the Scottish Government and the university sector commission a detailed equalities survey, to map the strategic gaps in the data landscape in terms of equalities in the university sector. Filling in the gaps in the equalities dataset is essential to ensuring that the correct decisions are made on the equalities outcomes agreed between universities and the Scottish Funding Council, and the spending assigned by Government to deliver such outcomes. We believe the timescale of the current 2017-2020 Outcome Agreement cycle provides an opportunity to undertake such work.

Universities are autonomous institutions and have their own systems in place for data collection on application, retention and completion rates at their own institution and work.
However, the Scottish Government recognises the committee’s concerns that the data currently collected may not provide a full picture and that in order to fully progress the Government’s ambitions with regards to widening access and ensuring a positive outcome for all students, regardless of their background or personal circumstances, further data gathering may be required.

We will work with the SFC, universities and other stakeholders to identify any areas where data may still be lacking and then consider the best way to address this.

**EHRiC Report Commentary in paragraphs 89, 90, 91, 92 and 94**

89. It is almost universally recognised that universities and “academia” are at the vanguard of social and cultural progress and development in human society. Indeed, the selling point of a “progressive lifestyle” experience to potential students by attending a university which provides a progressive, exciting and life changing environment is a cornerstone of a universities commercial marketing strategy.

90. Given the size, history, complexity and diversity of Scotland’s university community, it is understandable that adaptation and cultural change takes time and effort to deliver. Often the practical reality of universities as learning, working and living environments doesn’t match up to the glossy prospectus image marketed to potential students.

91. Nevertheless, attending a university should be one of the most liberating and life affirming experiences in a person’s life. The value of such an experience is not confined solely to the lecture theatre. Of equal importance is the social and cultural experience of wider university life. Gaining the maximum from this experience should be the aim for all students, including disabled people and BSL users.

92. For this reason, the development of an empathetic cultural attitude amongst Scotland’s university community, and individual academic staff in particular, is vital for the promotion of equality and a rights based approach. This does not, in our view, mean compromising academic standards. Rather, we see this as an enhancement of a university’s already valued position in Scottish society where students are given every opportunity to achieve their full potential.

94. This is especially important if we are to move away from an institutional tone of accommodating disabled people and BSL users rather than championing a rights-based approach. The default position should be to uphold the rights of all students, particularly those who may face discrimination and disadvantage without specific interventions.

The Scottish Government recognises the essential role that our universities play and the social and economic benefits they bring to our country. We agree with the committee about the value the university experience brings to individuals and that it is essential that students feel supported and fully able to participate in all aspects of university life.

Adopting a proactive approach to embedding inclusive practices throughout the entire university system and facilitating a campus culture that embraces diversity and is flexible and responsive to individual needs from the outset, will ensure that all students receive the support they need to realise their full potential and derive the maximum benefit from their time in Higher Education.
EHRiC Report Recommendations 93, 95 and 96

93. Universities must be mindful of the potential impact of how they engage and communicate with students, particularly the disproportionately negative impact on the physical and mental health and wellbeing of students if such interactions are not conducted in an appropriate and suitable manner.

95. As a Committee, we were concerned to hear the use of what we consider outdated, inappropriate and judgemental language and terms in relation to the standard administrative procedures of academic institutions. In evidence we heard terms and references such as: “tracking of students”; inviting students to “investigatory meeting” to assess “learning agreements” or reporting to “special circumstances boards” etc.

96. Such language and phrases, whilst maybe thought proper in the context for which they were originally created, seems to us to be more akin to a judgemental narrative from a bygone era rather than the vernacular of a modern progressive academic institution. Universities should, wherever possible, seek to eliminate such unhelpful language in favour of more positive, inclusive and respectful tone.

The Scottish Government agrees with the committee that universities must be mindful of the way they communicate with all students and give careful consideration to the language that they use, ensuring that terminology is appropriate, non-judgemental and inclusive and does not inadvertently cause students to feel stigmatised or marginalised.

Higher Education and Science Division
11 May 2017