



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 15 December 2016

Session 5



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Thursday 15 December 2016

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EQUALITIES AND HUMAN RIGHTS COMMITTEE

12th Meeting 2016, Session 5

CONVENER

*Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)

DEPUTY CONVENER

*Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Mary Fee (West Scotland) (Lab)

David Torrance (Kirkcaldy) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Fiona Burns (Scottish Further and Higher Education Funding Council)

Angela Constance (Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance)

Dr John Kemp (Scottish Further and Higher Education Funding Council)

Shirley-Anne Somerville (Minister for Further Education, Higher Education and Science)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Equalities and Human Rights Committee

Thursday 15 December 2016

[The Convener opened the meeting at 09:19]

Decision on Taking Business in Private

The Convener (Christina McKelvie): Good morning and welcome to the 12th and final meeting in 2016 of the Equalities and Human Rights Committee. I make the usual request that mobile phones be switched off or set to flight mode.

Agenda item 1 is a decision on taking business in private. Do members agree at future meetings to take in private items on correspondence from the commission on parliamentary reform and a review of our work programme?

Members indicated agreement.

Draft Budget Scrutiny 2017-18

09:20

The Convener: Under agenda item 2, which is our substantive item today on the draft budget, we will hear from the Scottish Further and Higher Education Funding Council, which provides funds to the 19 universities in Scotland, and from the Scottish Government. I am delighted to have with us, from the funding council, Dr John Kemp, the interim chief executive, and Fiona Burns, assistant director, outcome agreement manager and access lead. Good morning, and thank you for joining us.

Dr John Kemp (Scottish Further and Higher Education Funding Council): Good morning.

Fiona Burns (Scottish Further and Higher Education Funding Council): Good morning.

The Convener: We are almost at the end of our budget scrutiny, so you will have a clear insight into where we have been going with it and the issues that we have looked at. Obviously, we consider the budget with an equalities focus, and we have been looking at widening access specifically for people with disabilities and people who use British Sign Language as their first language.

I will kick off by asking John Kemp to set the scene on outcome agreements, how they come about and where the funding council is in that process. I think that you are at the stage of renewing them now.

Dr Kemp: That is right.

The Convener: It would be good to hear about the aspects of the outcome agreements that require universities to ensure that they have widened access—not just some of the softer aspects of disabilities but maybe some of the more complex aspects.

Dr Kemp: Outcome agreements were introduced about four years ago as a way of linking the funding that we give to universities—and to colleges, for which there is a very similar system—with the priorities of the Government and the SFC. Those very much include widening access, including for people with disabilities.

We issue guidance to universities on what we would like to see in an outcome agreement, and that contains measures that we want them to use to demonstrate how they are meeting the priorities. With regard to disabilities and protected characteristics, we used to ask institutions to reflect on where there might be an imbalance in their institutions and areas in which they felt—and we agreed—that they needed to take action. That was then reflected in the outcome agreement.

Institutions used to be able to pick and choose whether a particular protected characteristic would lead to a measure in their outcome agreement. We felt that that needed to be firmed up a bit more and in the current guidance there is more onus on institutions to look at and be clear on all the protected characteristics. It is a bit clearer that we want them to demonstrate that they are looking at all the protected characteristics and taking the correct action.

Fiona Burns is an outcome agreement manager as well as head of access. The outcome agreements that are being negotiated now are for 2017-18 and, in most cases, probably for the subsequent two years. The guidance for them is slightly different from what we have had until now. We have the early drafts of those outcome agreements, but we have not finalised them with the institutions—that is done after the budget-setting process.

In summary, outcome agreements are a way of linking the shared priorities that Government, the funding council and others have on equalities and other things with the funding that we give to universities.

The Convener: We have picked up that some universities have a bigger focus on equalities than others. You are right to consider what that means when one drills down. In the summer, the funding council took a proactive role on gender balance in colleges and universities, for example. How can you incorporate much more into the outcome agreements what is required of universities in order to provide access to people who have different or complex needs?

From the evidence that we have heard, it seems that there is good provision for people with dyslexia, for instance, but when someone has more complicated needs that may involve physical access to a building, that can pose a problem for some universities although not for others. That is also the case for people who use British Sign Language as their first language, which is an aspect that the committee has been looking at. How do we ensure that, as we move forward, policy creates opportunities for people to have the access that they need?

Dr Kemp: You referred to the gender action plan, which we launched in the summer. That is perhaps the kind of approach that we need for other protected characteristics, in particular disability.

There are areas of very good provision in universities; some universities have picked up the issue themselves and are running with it. However, you are correct to say, from looking at the evidence that has been submitted to the committee's inquiry, that the picture is mixed. For

particular disabilities and specific institutions, the story is not so good. Perhaps we at the funding council need to reflect on how we give a bigger push towards making best practice more common across the sector and ensuring that some of the more tricky issues are addressed.

We must acknowledge that some issues are tricky—for example, universities are sometimes dealing with small numbers of people. Part of the reason for the amount of action that has been taken on dyslexia is that there is a bigger number of people with dyslexia than there is in other groups. We need to think about how we give a renewed push on the particular aspect of equalities that we are discussing to ensure that it is at the forefront of institutions' minds as we refresh outcome agreements. The current guidance does that to some extent, but I accept that there are other things that could be done.

The Convener: At our meetings last week and the week before, a key issue that we heard about was the differences even between schools and faculties within universities. At last week's meeting, I spoke to the universities about staff training and asked whether it is mandatory and what the take-up is like. They admitted that while some people go on staff training, a lot of people do not; that applies especially to equalities training and specific training on disabilities such as BSL.

Is there any space in the outcome agreements to ensure that such elements of staff training become mandatory? Some of the written evidence that we have received has focused on direct one-to-one contact with academic staff rather than the ethos of institutions or student bodies. To my mind, the issue can be fixed quite easily with a decent staff training programme, but it would need to be mandatory.

Dr Kemp: I accept that that would be a useful way forward, but given that we try to keep the outcome agreements as strategic documents that are agreed with each institution, the challenge is whether the outcome agreement or some other method would be the most appropriate way to make staff training mandatory and increase the amount of it.

Through the outcome agreements, the funding council can focus on the outcomes that we want, but I would be slightly resistant to being too specific in outcome agreements on the number of staff doing training. We could put measures in an outcome agreement, but the risk is that they would not actually tell us how much that action is affecting students and so on. I am very open to the point that staff training is part of the solution and that we need to look at ways of ensuring that it is happening. However, we need to think about how we put that in the outcome agreements in a meaningful way that does not simply lead to loads

of people going on training courses without necessarily taking into account the outcomes for students.

The Convener: Does Fiona Burns want to add anything?

Fiona Burns: To reflect on that point, we undertook quite a full review of the college system and of what was called extended learning support funding. In essence, the main finding from that was that it is people who help people—that is where we see the biggest impact from any finance that we put in to help people with disabilities.

Another finding was that, particularly in the college system, sometimes the complexity of the conditions means that on-going training of academic staff is absolutely essential to enable them best to meet needs—for example, from increases in autism or dyslexia or the combination of the two, sometimes with other conditions on top.

I agree that good continuing professional development is the way to go—needs are increasing at such a rate that it is essential. However, I get the sense that the university sector is investing in that and is aware, particularly about mental health and the need to invest in their staff to ensure that they can provide the best teaching possible.

09:30

The Convener: Yes, we have some good examples of that.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I want to take the panel right back to the admissions process. Our students spend five to six years at school getting their highers, advanced highers and so on and then apply to university and encounter the personal statement process. Is there any monitoring of that process to ensure that it complies with the principles of equality of access for people who have disabilities and right across the population?

Dr Kemp: Do you mean the personal statement aspect of the process?

Willie Coffey: Yes.

Dr Kemp: The SFC does not monitor how that part of the admissions process is used. Recently, as part of the work that the commission on widening access was doing, we looked closely at how admissions were working, particularly because we were interested in knowing the extent to which institutions were using contextualised admissions and looking at students' circumstances—looking not just at the number of highers a student gets but at the context in which they got those highers. That usually means asking whether they are from a school with a low level of

progression to university or in a particular postcode area. The context in which somebody got a particular set of highers can also be affected by disability.

We found that the personal statement was not always used by every institution. It is part of the Universities and Colleges Admissions Service—UCAS—system and many institutions do use it, but in most it is not a huge part of the selection criteria. However, if you are going to operate a contextualised admissions system that looks at the whole student and understands the context in which they got the grades they got, the personal statement might need to be used more.

As part of the implementation of the commission on widening access, we and the Government will be working with institutions to make sure that contextualised admissions become more widespread and that the factors that are taken into account are broader than the ones that are currently used. However, we do not currently monitor how admissions are done in institutions.

Fiona Burns: The commission on widening access recommended that we take forward a full review of what it called non-academic factors. I was part of the secretariat for the commission on widening access, so I am aware of the work that went into that aspect—there was an expert group on admissions, involving admissions staff—and of the variance, as John Kemp said, in how the personal statement element was being used. I am also aware, from the student perspective, of how much time and effort can go into trying to provide a good personal statement. If all that effort is being put in, it is important that the statements are considered equally across all our institutions. On the other hand, evidence was given that suggested that private schools and so on know exactly the right information to put into a personal statement to give somebody an edge, which means that there is some unfairness for other students.

The situation needs to be looked at to ensure that personal statements can be considered fairly and equally and provide additional information to help consideration in the admissions system. We look forward to that work and we fully agree with the commission's recommendation.

Willie Coffey: So some universities use personal statements in the admissions process and some do not. For those who do, how can we be sure that what they are doing—who they are admitting and not admitting—is fair if there is no analysis?

Dr Kemp: The best contextualised admissions systems are based on evidence that shows that if a university takes in a student with a couple of grades that are lower than other students but who

is from a particular type of school—or whatever—that student will, by the end of their university course, perform as well as students from a different type of school who have a couple of higher grades. In a perfect world, that works. Institutions often do that for their entrants, and can be quite clear that they are being fair in taking a student who has lower grades than another student, because they know that the outcome will probably be the same—they have evidence that when they have taken people with lower grades from that type of school in the past, they have performed well.

You will have seen from the submissions that you received following your call for evidence that making contextualised admissions decisions based on the personal statement and a consideration of issues around disability is not at all widespread—in fact, I am not sure that any of the universities are doing that. Part of encouraging universities to do so would involve building the kind of evidence base that I talked about, although in relation to types of school rather than personal statements. Doing that would be more challenging, but it is worth exploring whether it could be done so that very robust, contextualised admissions decisions could be taken that take on board that kind of background information. Sometimes, though, admissions decisions come down to the training of the people who make them and whether they use the information in the UCAS form to its full extent and do not just look at those with the higher grades.

Willie Coffey: What if two students from different towns in Scotland who have exactly the same passes—in highers, advanced highers, or whatever—apply to the same university and one gets accepted and one does not? The only basis on which universities can conclude that there is a difference is the personal statement. How on earth do the two students and their families know that one was treated fairly compared with the other?

Dr Kemp: When the system is working well, a university will make it clear as part of the admissions process that it has a contextualised admissions system and it will explain the flags that it takes on board that might make a difference. Universities have hard decisions to make: they cannot admit everyone and even when they can admit people, often it is not for the course that they want. However, a university that has a contextualised admissions system can take somebody with four As in their highers from one kind of school and somebody with two As and two Bs in their highers from a school with very low progression—or where there are other flags that they can attach to the student—based on evidence that the person who has done that well from that type of school is likely to thrive at university.

When the admissions system is based on evidence, universities will publish that up front and make it clear that they make contextualised offers based on that kind of evidence, so the process is very open and transparent. In that case, you might get two students who have exactly the same set of grades, one of whom gets in and the other does not because the university is using contextualised admissions. Where it becomes more challenging is when there is not a contextualised admissions system; how then do you monitor externally how the personal statement is used as opposed to something that is more evidence based—for example, the postcode or the type of school?

Fiona Burns: We have commissioned some research to look into contextualised admissions in much more detail because we are aware of excellent provisions at universities that contextualise admissions—most do, these days—but one issue is that the process is not necessarily entirely transparent and consistent across all of them.

We want to develop a map of contextualised admissions right across Scotland to advise us on which are the best factors to take into consideration, so that we can then advise our university sector accordingly. That work is being undertaken at the moment and should be reported on early next year.

Mary Fee (West Scotland) (Lab): I have a few questions about the support packages that are available. In the evidence that we have heard, there is an acknowledgement that there should be equality and fairness for all, that support should be freely given and that everyone should be supported. However, that is where it ends.

For example, if somebody has dyslexia, they are supported through university; if they have more complex needs, it is far more difficult to get the continuing support and package of care that they need. Often, people are put off by going through that process. We have also heard that the application for additional funding for support cannot be made until an offer from a university has been made and accepted. Therefore, the funding often does not come at the point of entrance to university. What can be done to ensure that universities fully support individuals and do proper assessments regularly, to ensure that people constantly get the support that they need?

Dr Kemp: I will let Fiona Burns come in with some of the detail later. Some of the support packages that you have talked about are funded not by us but by the Student Awards Agency for Scotland. However, the issue about timing and the need to ensure that there is not a huge gap between the acceptance and the package being put in place is important and should be considered.

The more complex matter is how we ensure that every student is supported. Sometimes, we are talking about support for relatively small numbers who have complex conditions or combinations of conditions that might not appear in a given department of a given university every year. Therefore, we need to ensure that institutions are prepared and trained for the generality of issues—if there ever is a real generality—and have a responsive system so that, if an institution knows that some students with particular needs are coming, it can put the necessary training and, sometimes, adaptations in place quickly to prepare for them. That is about having systems in the university that are geared up to do that so that it does not come as a surprise halfway through the year that a student needs a ramp or is blind. Such situations need to be planned for and prepared for.

There are some good examples of courses that are specifically designed for students with disabilities, such as the deaf performance course at the Royal Conservatoire of Scotland, but, in most cases, people will choose courses that are not so designed. Therefore, the system in universities will have to be responsive and use the resource that the universities get from the funding council to ensure that every student's need is met. That system must be responsive as well as preparatory on the wider range of needs. Sometimes, a university will have to respond quite quickly and do something about where a course is located or consider what it is going to do to a particular building, because it has students with different needs.

Fiona Burns: We are members of the new student support review group that is considering issues such as that. We have already fed in quite a lot of detail in relation to students with disabilities, particularly the point about the time gap between them getting the support that they need and the point at which they enter the university system. On the whole, our system is about a rights-based model. There is an assumption that there will be students with needs and it is the university's duty by law to meet them. However, as you outlined, there are examples in which that is particularly tricky. I really look forward to working with the student support review group on how that can better be done.

Mary Fee: From the evidence that we heard, it almost seems that the support that most educational institutions and universities give is reactive rather than proactive. We need to encourage them to become more proactive about what they do.

Dr Kemp: It needs to be a bit of both. Universities need to be proactive and prepared. They need to have systems that assume that they can meet need and that need often exists.

However, sometimes a university will suddenly have on a course a couple of students with disabilities who were not there the previous year and it will have to react quickly. It will have to be proactively prepared to react, if that does not sound like a contradiction. It is important for a university to examine the need each year and be able to get things in place quickly.

09:45

Mary Fee: Your submission is very helpful. In paragraph 6, you say:

"Under-representation is likely to be the result of a number of factors such as lower attainment at schools for pupils with additional support needs".

When I first read that, it seemed like a bit of a sweeping statement. It seemed that you were saying that if someone has additional support needs, they will have lower attainment. Have you done any work to find out the reasons for those lower attainment levels? Is that just to do with the support packages that are put in place for young people when they are at school?

Dr Kemp: No—there will be other reasons.

We fund colleges and universities, and the figures are different in the two sectors. It is a question of displacement. The number of people with disabilities is higher in colleges. To some extent, they are going to college instead of university.

I accept that the statement is sweeping. We probably need to dig into the issue more deeply, but it is partly about the data. As far as I am aware, we do not have very good data on individual types of disability at school and how that relates to flow through to university and college. We need to look more closely at the data in that area. I accept that the statement in our submission was a bit sweeping.

Fiona Burns: It relates to the Scottish Government statistics on students in the school system who have an individual educational learning plan or a co-ordinated support plan of some nature. According to those statistics, the attainment of those students is significantly lower than that of their peers, but the figures are not broken down by type of disability. I am aware that the Scottish Government has those figures, and we have been working with it in relation to the college system, in particular, to establish whether we can more effectively link up the two sets of data so that colleges can future proof themselves for the students who are coming through the school system at the moment. There is absolutely no reason why the same process could not happen with the university system, too. We need to make more available to both sectors the data on who the pupils in the school system with such

needs are and what they might need from the college and university system, if they choose to stay in Scotland.

Mary Fee: A young person who is in the school system who has additional support needs will have in place a package of support to get them through school. I am not sure whether this happens—if it does not, I am not quite sure why it does not, although I understand that there are concerns about the sharing of data—but if the support plan in school were used as a basis for the support that a young person with additional needs would need when they went on to higher education, would that not streamline the process slightly?

Fiona Burns: Absolutely. One of the key issues is that, when someone leaves school, they are an adult, so they have the right not to declare a disability. It is quite common that a student will choose not to declare a disability—presumably, it will not be a visible disability. Sometimes, the disability becomes apparent only when they start to really need support—for example, when exam time comes. When the pressure rises, people can recognise that they need help. That is always a difficulty. Universities do a lot of work to encourage as much declaration as they can so that they do not face that last-minute problem. They will do everything that they can to help, but if the issue is left too late, it is difficult for them to overcome that. We work with the universities on that.

Jeremy Balfour (Lothian) (Con): Good morning. Thank you very much for coming.

I would like to explore a couple of areas further. We have the outcome agreements, and John Kemp talked about encouraging the universities to be a bit more proactive. A university might pay lip service to the issue but, in practice, nothing might be changing. What sanctions could be applied? Have you ever considered taking such action in the past four years?

Dr Kemp: That is a very sensitive issue with universities. Where we have put in place specific funding for things such as widening access, and universities have not been filling the places with widening access students, we have taken the places away and moved them elsewhere. Our main sanction involves how we use our funding. That is not an area that we have yet gone into on any protected characteristic; we have used that sanction only with additional places for widening access.

In our outcome agreement guidance, we refer to the kinds of things that we might do if an outcome agreement is not met. The ultimate sanction is not to fund bits of activity. However, that is something that we would do only in extremis. We would want

to use the system to get the institution to respond and to meet needs.

In the case of protected characteristics and disability, the institution also has a legal obligation to do things. Our funding is part of the suite of measures that will encourage them to do those things, but it is not the only one. This is a real dilemma for us sometimes. If we were to say that institution X is not very good at meeting the needs of disabled students, so we are withdrawing X amount of funding and moving it to institution Y, which is far better, in the long run that would not help the students who might want to go to that first institution and who need to do the courses that the first institution offers. Our prime aim is to encourage that institution to improve, rather than to use a primarily sanctions-based approach.

However, that sanction does exist, and it has been used where additional places have not been filled. On something like equalities, if an institution was that bad it would not be meeting its legal duties, so that would put it in a very bad place. We need to encourage institutions to improve so as to better meet needs. Although there are some very good examples of what institutions are doing, we all acknowledge that there is room for improvement. We want to encourage that improvement rather than use a sanctions-based approach.

Fiona Burns: Speaking from my experience as an outcome agreement manager, the outcome agreement is not just the document itself; it is the whole process that sits around it. As an outcome agreement manager, I am aware that there is an element of support for the institutions, but there is also consistently a huge element of challenge throughout the academic year.

If the institution has committed to achieving a certain target, which has been accepted by the funding council, the job of the outcome agreement manager is to continually ask for progress updates—"Where are you with that?" If the institution is not achieving the target, it is asked why it is not and what it is doing about it. We are invested in the agreement, too, so, by the end of the time period, we want the data on what the institution said that it would do to show that it has done it—it has worked and the target has been achieved.

There is so much more to it than just getting the actual document agreed. There is also an awful lot of challenge on outcome agreement managers to deliver within the funding council.

Jeremy Balfour: Going back to widening access, which all of us are clearly signed up to and want to see happen, I think that one of the unforeseen circumstances with the capped number of students involves what happens to the

person who goes to school and gets their four As but does not get a place. How do we end up not having discrimination the other way? Someone does not get a place because they have gone to a certain school and seem to be getting an advantage academically. Have you done any work on how we level that off, or are we not at that stage yet? Are we so far behind the curve that that is not really an issue?

Dr Kemp: Admissions should be about fairness if they are designed with limitations. Even if everyone who applied to university could get in, there would still be issues because some courses are more popular than others, so there needs to be a fair system of ensuring that the right students get on to the right courses. That has to mean ensuring that the students with the best potential get on to the courses. As I have said earlier, that is about more than just exam results. Contextualised admissions are part of having a fair system.

If we are to increase the number of applications from the groups who currently are not going to university, that will lead to a higher demand—unless something changes with the groups who are currently going. UCAS figures that were published yesterday indicate that not everyone is getting in, and the proportion of people who are not getting in has been going up. There are a number of solutions to that, but the solution that we should be exploring most closely—the one that gives a better outcome for more students—is using the capacity in schools, colleges and universities together to improve the learner journey, so that there are routes into higher education through college. We should use the capacity of those sectors to the maximum extent so that everyone who wants to get into higher education can. While that work is going on, we need a fair admissions system so that people who get on to courses do so for fair reasons.

Jeremy Balfour: I should declare an interest: I happened to go to an independent school. I was interested in Fiona Burns's comment that private schools seem to have a slight edge in how pupils fill out their forms. I presume that it is not rocket science; somebody has told them how to do it. Why are we not telling pupils in every school how to fill out their forms? Presumably, pupils in private schools go off to a room and are told something that pupils in the state sector are not told. Why is that information not being shared? The situation seems slightly unfair. It might not be your area, but are you encouraging people to work out how they should best fill out their forms?

Dr Kemp: Some of the work that we support with schools projects is about encouraging more people to apply to university from schools from which, traditionally, people have not applied, and

we support those schools on exactly that kind of thing.

This is a thought experiment. If everyone wrote the perfect personal statement and everyone had four As in their highers, choices would still need to be made. They need to be made in a fair, evidenced-based and robust way, so that we get the right people into the right university courses.

Fiona Burns: We have access initiatives, such as the schools for higher education programme, which works with low-progression schools. We have an access initiative for the high-demand professions, such as medicine and law, which works with pupils who are interested in those professions and helps them to make the best application they can.

We are investing in the research that I referred to earlier because contextualised admissions are so important to ensuring that the admissions process enables us to have not only the best talent in the university sector but talent that is diverse and best reflects the nature of the population of Scotland.

Along with those things there is the work that the commission on widening access has asked us to do on non-academic factors such as the personal statement, which is crucial. If we are going to use the personal statement, we need to ensure that it is used fairly, that all universities use it in the same way, and that everybody knows, when they fill it in, that it will be considered equally across the range. Personal statements are difficult for universities as well, because they are used in so many ways and are subjective by their nature.

Jeremy Balfour: Coming to work this morning, I saw on the BBC website that the University of Bristol will now require different academic results depending on what school someone comes from. Are there universities that we can point to in Scotland that have that policy as well? Is that something that you are looking to move forward?

Dr Kemp: The University of Bristol has been doing that for some years. It was the pioneer of contextualised admissions. Increasingly, universities in Scotland are using contextualised admissions—in fact, I would say that the majority of universities use some form of them. Contextualised admissions systems compare what a particular set of highers might look like from different schools. Sometimes they use low-progression schools and sometimes they use other flags to identify students who have different circumstances. Such a system exists in the majority of Scottish universities.

Fiona Burns: We are looking forward to the appointment of the commissioner for fair access, who presumably will help us take forward the recommendation on access thresholds that was in

the commission on widening access's report, and to take forward the next evolution of contextualised admissions.

10:00

Annie Wells (Glasgow) (Con): Last week and the previous week, we discussed admissions. One of the witnesses to whom we spoke was a user of BSL who had been to university. He said that it was difficult for him to do his written statement in written English, because that is not how he is used to speaking, and there are other people for whom written English is not their first choice. We wondered whether other forms of application might be acceptable. Would an application in the form of a BSL video be acceptable? People might be more confident about putting forward a personal statement in that form. Most of the representatives of the universities to whom we spoke last week had not considered that issue.

Dr Kemp: I have read the *Official Report* of your earlier evidence sessions, and I have thought about the particular case that you mention.

UCAS runs the admissions system, not us. However, clearly, we have an interest in making sure that the system is fair and effective. I think that we should explore whether changes could be made that would allow what you suggest, although I think that it would be challenging. The UCAS process is fairly big and streamlined, and it takes a huge number of applications and dishes them out to lots and lots of universities, so there might be technical challenges in that process. However, it is worth exploring whether those challenges can be overcome. Of course, there are a few institutions that do not recruit in the traditional UCAS way—there are variations for the Royal Conservatoire of Scotland and the art schools, which use portfolios and auditions. That shows that it could be possible to do something like what you suggest. We would be willing to explore whether that will be feasible, but I cannot give a categorical answer at the moment.

Annie Wells: Absolutely. The other side of the issue concerns assessments and exams. For example, should we accommodate someone who communicates through BSL in assessments and exams, too?

Dr Kemp: That is the question that immediately arises. If someone is admitted based on an application that does not include written English but the course requires them to write English, you would need to make a decision about whether it is reasonable to change the course and so on. These are valid questions, and they need to be considered. We would be happy to explore those questions with UCAS and see whether any changes would be feasible.

Fiona Burns: We are members of the national advisory group for the development of the national plan that will be coming out, and we are feeding in information on various issues.

Alex Cole-Hamilton (Edinburgh Western) (LD): I want to look at admissions through a slightly different lens, with particular regard to people with additional support needs or disabilities who choose to go to university, and the barriers to that decision making. Over the past couple of weeks, we have heard a lot of evidence from people who have talked about things such as the fact that the wider student experience—engagement in societies and the broader social element of university life—is not particularly geared up to deal with their additional needs. They also spoke about physical access to buildings. Having gone to an ancient university, I remember attending tutorials that were in windy garrets up four or five flights of steps, which would have been absolutely inaccessible to people with mobility needs.

Some of the changes that would be required to create accessibility would need an astronomical, prohibitive amount of expenditure. What is the funding council doing to help universities to box clever and disseminate best practice about how we can get around the significant obstacles that exist with regard to both the wider student experience and the physical access to the university estate?

Dr Kemp: I read some of the evidence that you have received in previous meetings, and I have been struck by the point that was made by several students that, even when access was arranged to the academic part of the course, some of the wider student experience was still hard for them to access. We need to consider that point. It is not just about the tutorial room; it is about the student union and all the other things.

Judging from what I read, I think that there is evidence that some of the universities are boxing clever; if their whole estate is not accessible and cannot be made accessible straight away, they are ensuring that things are located in the parts of the estate that are. However, it was evident from what I read that that is often not happening as neatly as it could, and it is only after people have climbed up four flights of stairs, for instance, that the university realises that there is an issue and makes changes. It is not always happening.

In an ideal world, we could fund universities with enough capital for them to resolve all the really difficult issues. Realistically, in the current financial climate, it will take some time for that to happen, but students are going to university now. Knowing that in 10 years' time somebody will have an accessible building is of no use to the current students. We need to encourage universities to

box clever, as you say. There were some very good stories in the evidence about how that is being handled, but there were also stories about where it is not happening. Part of the task of the funding council and other bodies is to disseminate that good practice so that it represents the standard and to ensure that the bits of bad practice are not happening.

There is a bit that is more challenging, and it is important. Universities will react to the need to make adjustments so that the tutorial rooms or the labs are accessible, but some of the stories that I read were about what is happening in the refectory, for instance, which is also important. We need to encourage best practice there, too.

Our role is to use the outcome agreement system and our other interactions with institutions to promote best practice, as well as working with some of the other organisations that you have heard from as part of your investigation.

Alex Cole-Hamilton: I am glad that you have mentioned outcome agreements, as that brings me neatly to my second question. I am very interested in the application of outcome agreements in the university sector.

A fair criticism is levelled at local authority single outcome agreements. In many cases, since they were first envisaged in 2007 the agreements have sat on a shelf in the local authority and gathered dust until the next iteration of the single outcome agreement has had to be published. No sanction has been deployed against local authorities that have not met their own outcomes, and there has been very little scrutiny or consistency.

I am interested to hear how you get universities to take their outcome agreements seriously, how you measure them and how you measure success—and, more important, how you measure failure against their delivery.

Dr Kemp: Our outcome agreements certainly do not sit on a shelf. We have a system whereby, although outcome agreements usually have a three-year time horizon, they are refreshed annually. There is an annual cycle, for which we issue guidance to make it clear what we think the outcome agreements should contain. There is then a process of agreeing the outcome agreement between the funding council and the institution.

Once that is done, we ask the institution to do a self-evaluation of how it has done against the previous year's outcome agreement. That includes all the targets. We ask the institution to reflect on whether it has done well or badly or could have done better.

We then assess that self-evaluation, also using a range of data that we collect through the Higher

Education Statistics Agency and so on. As well as the institution's self-evaluation, we look at its performance on widening access and a number of other things. We engage with the institution throughout the year, but particularly at the time of the self-evaluation. We use that self-evaluation to feed into our consideration of the following year's outcome agreement. Around this time of year—tomorrow, in fact—a council will meet and will consider the evidence from the self-evaluations and the current performance as a kind of prior decision-making process before it decides what to do about the following year's outcome agreement.

There is an annual cycle of preparing the outcome agreement, having the guidance for the next year and assessing performance. As Fiona Burns said, the outcome agreement is partly about the written piece of paper and the assessment of how well the institution is doing against that—in essence, it is a funding contract with the institution—but it is also about the relationship between the outcome manager, such as Fiona, and the institution, through which somebody constantly challenges the institution. The outcome manager also sometimes supports the institution. The institution might say that it is having trouble doing X and ask whether there are ways in which we can help. That support and challenge function goes on throughout the year. At particular points, that feeds into the outcome agreement preparation, but at other points it is just on-going challenge. The agreements certainly do not sit on a shelf. There is an annual process and cycle around them that we pursue fairly vigorously.

Fiona Burns: There is also the access team in the funding council. A key element of our job is to assess every one of the outcome agreements through a widening-access lens and to provide feedback on the individual agreements. That is all documented and shared at director and chief executive level. That shows the quality of each individual institution and how they compare with one another, and it feeds into the guidance for future years and for the individual institution, where that is necessary.

Mary Fee: To follow on from Alex Cole-Hamilton's line of questioning, in 2004 the University of Edinburgh conducted a study of disabled students in higher education, which highlighted a number of points. In the evidence that we have heard in the past few weeks, many of the points that were highlighted in 2004 that caused problems for students with disabilities have been raised with us again. I realise that there are outcome agreements and that you monitor and work with institutions, but it seems that very little progress has been made in a number of areas. Although I welcome the appointment of a commissioner for widening access, there must be another mechanism to ensure that more is done to

widen access. I am interested in your thoughts on that.

The Convener: To add to that, one key issue is the disabled students premium. There are issues to do with the criteria for how that premium is set, the strategic funding programme that it is used for, how universities are encouraged to use it or to use it better and how that is monitored. That ties into Mary Fee's question about what we are doing. Funding streams are available to ensure that things get done. How are they getting done?

Dr Kemp: I accept Mary Fee's point that a lot of the issues that have come up in the committee's investigation have been about for some time. However, I contend that some progress has been made. The retention rates for students generally have been improving over the years and the gap between students who declare a disability and all students has been narrowing, so there has been progress. In that time, there have been some good examples of institutions doing very good things, such as the conservatoire's deaf performance course.

I accept that there is still a journey to go and that part of further narrowing the gap in attainment between students with a disability and others is about correctly applying the funding that universities have to support all students. Several years ago, in effect, we put the disabled students premium into the main pot of funding. It still exists as a separate line, but it used to be that an institution would get it based on the number of students that it had with declared disabilities. However, we felt that that was probably oversupporting some institutions and undersupporting others. Because dyslexia is such a big part of the declared disabilities in universities, that skewed things towards particular institutions. Our view was that all institutions have a responsibility to be prepared for students with a disability and that the premium should be in proportion to the total number of students and not just the number with declared disabilities. We quite deliberately put the premium in proportion to the main pot.

Although we hold institutions accountable for what they are doing on disability through the outcome agreements, we expect them to use all the funding that we give them for such students as part of that, in theory. Clearly, I do not mean all of it, because it is for all students. I mean that when they look at what pot of money they have to support disabled students, they should be looking at the whole pot, rather than at the proportion that has been identified as the disabled students premium. They have a legal responsibility to serve all protected characteristics.

10:15

Our philosophy has been that, although funding is important, we do not want to work out the exact cost of each particular student and give that to the institution, because that would lead to a lumpiness of reaction and would mean that institutions would not respond quickly enough. We expect institutions to see that as core business and to build it into their core funding. As I said earlier, it might be an area for which we need to up our focus a bit so that we are clearer about expectations and about ensuring that good practice is more widespread. There has been some progress; the fact that the retention rates gap between all students and students with disabilities has been narrowing is positive. It is not fast enough; some of those things take a while to fix and we should be pushing for that to be faster.

The Convener: We are bumping up against time and we have another panel this morning.

However, on the back of John Kemp's remarks, we want to know whether the Scottish funding council reports on the destinations of university graduates. We know that colleges report destinations and that one of the measures of whether students have been successful in their higher education is their destination. Do universities report on that and would you consider building that into the outcome agreement?

Dr Kemp: There is a report on destinations for leavers from universities. Fiona Burns has the figures in front of her, and I will ask her in a minute to explain what they do.

The Convener: If you could share the report with us, that would be helpful.

Dr Kemp: I stress that the destinations are reported six months after graduation and quite a lot of students—all students, not just those with protected characteristics—have not settled in their final career by then, so there is a bit of a health warning for those statistics. They are collected by the Higher Education Statistics Authority.

The Convener: Do the statistics include specific information about people who have disabilities? Is it broken down in that way?

Dr Kemp: Yes.

Fiona Burns: I can certainly share a very similar story to that in the college leaver destination survey. There is a gap, which is not what we want.

Dr Kemp: We can share that data with you.

The Convener: That would be helpful. Thank you both for your attendance at the committee this morning, for your written evidence and for the evidence that you have agreed to share in the future. We appreciate your responses this

morning. We have got some way forward with some of the inquiries that we are doing. If you go away and think that you should have told us something else, please get in touch.

Fiona Burns: We will.

Dr Kemp: Thank you very much.

The Convener: I suspend the meeting for about five minutes for a comfort break.

10:18

Meeting suspended.

10:21

On resuming—

The Convener: Welcome back. We continue our evidence taking on the budget with our second panel. Angela Constance is the Cabinet Secretary for Communities, Social Security and Equalities. Good morning, cabinet secretary.

The Cabinet Secretary for Communities, Social Security and Equalities (Angela Constance): Good morning.

The Convener: Shirley-Anne Somerville is the Minister for Further Education, Higher Education and Science. Good morning, minister. I believe that this is your first appearance at a committee.

The Minister for Further Education, Higher Education and Science (Shirley-Anne Somerville): As a minister, yes.

The Convener: Excellent. We will be gentle with you. The Scottish Government officials who are supporting the cabinet secretary and the minister are Lesley Irving, head of equality policy, and Leia Fitzgerald, policy manager in the higher education division. Good morning to you all and welcome to the committee.

This is our final session on the budget. We decided to focus on the widening access part of the equalities budget and, specifically, access to university for people with disabilities and people who use British Sign Language. We need both of you here today because we want to address some of the equalities issues and some of the widening access and policy issues in relation to university. We know that your busy schedules mean that it will not always be possible for you to attend together, so we are delighted to have you here this morning. You might have heard some of the evidence that we have already taken.

I believe that you both have opening statements to kick off with. Cabinet secretary, would you like to go first?

Angela Constance: Thank you, convener. I am grateful for the opportunity to appear before the

committee as part of your scrutiny of the 2017-18 draft budget.

You will appreciate that, as the draft budget will not be published until this afternoon, I will not be able to comment or reflect on the Government's spending plans. However, I can confirm to the committee that, as in previous years, equality analysis and assessment have been undertaken as part of the preparatory work on the budget, and the results of that work will be published in the eighth equality budget statement, which will accompany the draft budget. Also as in previous years, we have been supported in that process by the equality and budget advisory group. I put on the record my thanks to its members for their expertise and insight and the challenge that they bring as we continue to look for the best ways to ensure proper consideration of equality right across the Government.

I understand that, in its scrutiny, the committee is keen to focus on disability and access to university. My colleague Ms Somerville is best placed to engage with the committee on access to university and matters relating to disability and education, but I will say just a few words about disability equality more broadly. It is a great idea for the committee to have ministers with different portfolios appear before it, because it is important that the Government demonstrates that we have a joined-up approach and that equalities are for every portfolio, not just the communities and equalities portfolio.

It is more than 20 years since the enactment of the Disability Discrimination Act 1995, which has now been replaced by the Equality Act 2010. However, although progress has been made, we know that many disabled people are still unable to live their lives as they want to. The barriers that they face day in, day out prevent them from making their full contribution to daily and public life. The way that our public services, workplaces and local environments are designed or operate can exclude disabled people. That is, quite simply, not acceptable.

The committee will be more than aware that, on 2 December, we published "A Fairer Scotland for Disabled People—Our Delivery Plan to 2021 for the United Nations Convention on the Rights of Persons with Disabilities". The plan draws on the views of disabled people and those who participated in the consultations and discussions. It contains five long-term ambitions and a wide range of actions that we will take in the current session of Parliament.

We are determined to make meaningful progress on, for example, reforming adult social care so that we shift the focus to the achievement of independent living; promoting independent advocacy so that people know about and can

claim their rights in relation to mental health; and conducting an awareness-raising campaign to tackle negative attitudes as part of the one Scotland campaign next year.

In the coming period, we will be focused on addressing the employment gap for disabled people, and our new devolved Scottish employability programme will provide high-quality support that is tailored to the needs of disabled people.

We will place dignity and respect at the very heart of our new social security system, and our ambition for Scotland to be the best place in the world for our children and young people to grow up in has to apply to all our children. We will develop a national framework for disabled children and young people to ensure that they get the best possible provision and support.

Our “Fairer Scotland Action Plan” will also work to ensure that we have a fairer and more equal society for all Scotland’s people. At the heart of that plan are 50 fairness actions for the current session of Parliament, which will help us to meet those ambitions. Again, they range right across all Government responsibilities.

Creating a fairer Scotland will require all of us—Government, communities, people with lived experience of poverty and disability, business and industry, and the public and third sectors—to work together to achieve change. We know that Government cannot deliver change on its own, nor would we want it to. We will continue to work with anyone and everyone to make the actions a reality.

I highlight to the committee that we have maintained our commitment to equality investment over this period of public spending constraint, and we will continue to support and work with a range of organisations that represent disabled people. It is vital that the voices of disabled people are heard and that disabled people participate in shaping the decisions that affect them.

I very much welcome the committee’s important inquiry and I am happy to consider incorporating its recommendations into the disability delivery plan, which will be monitored to ensure that progress is made and to take account of emerging issues.

At the end of the day, we all share the aim that disabled people should be able to study at university without experiencing discrimination or facing barriers that could and indeed should be removed. I look forward to our discussion.

The Convener: Thank you, cabinet secretary. Minister?

Shirley-Anne Somerville: Thank you, convener. Like the cabinet secretary, due to the

timing of today’s statement, I will be unable to answer questions on the detail of the budget, which will be announced later.

The committee is aware that widening access to higher education is a key priority for the Government. The 2014-15 programme for government set out our stretching ambition for all children who are born today, irrespective of socioeconomic circumstances, to have an equal chance of entering university. That policy objective is very much in harmony with our wider vision of a fairer and more equal Scotland that is driven by inclusive economic growth.

10:30

The commission on widening access was established to advise us of the steps necessary to realise that ambition, and it made 34 recommendations that, taken together, represent a bold and ambitious agenda for change. Indeed, I would argue that it involves perhaps the most radical set of actions being undertaken anywhere in the United Kingdom to tackle what has often been regarded in education systems across the world as an intractable problem.

The committee has heard evidence that the commission’s primary focus was on tackling socioeconomic inequality. However, I echo Russell Gunson’s evidence that there are intersections between those issues and disabled access. For example, I was struck by the common themes emerging in the evidence that the committee has heard so far on issues such as cultural barriers and the need for enhanced pastoral care. I would therefore expect the commission’s proposals to have a naturally positive impact on the participation of disabled learners, perhaps especially the proposals that relate to the reform of admissions, more rigorous support for access learners and progression from college. The commission also recommended that the new commissioner for fair access should consider whether there are further barriers for learners with protected characteristics and make any necessary recommendations to ministers.

Similarly, I announced in October an independent review of student support in further and higher education. The aim of the review is to assess the effectiveness of the system of support for all students engaged in further and higher education in Scotland and to make recommendations for beneficial change. The review will consist of a number of sub-groups, one of which is looking at the support available to vulnerable students. Understanding the needs of students with disabilities will be an integral and core part of that work.

There are therefore a number of mechanisms through which we can ensure that the evidence specific to the cohort of students with disabilities is examined thoroughly and that any necessary policy interventions are tailored to meet specific needs. In that regard, the work that the committee is completing will form a crucial part of the ongoing discussions. It is important also to have in mind the fact that institutions have clear statutory duties in relation to disabled learners. I am sure the committee shares my expectation that institutions will be proactive in responding to the evidence that emerges from that work.

I close by highlighting that, although it is by no means perfect, access for disabled learners is improving. The proportion of undergraduate entrants with a declared disability has increased year on year and, as of 2014-15, stands at 10.8 per cent of total entrants. Retention is also improving—it is significant to note that the gap with all learners has closed to just over one percentage point. The disabled students allowance in Scotland has been protected and continues to be demand led, meaning that the budget is determined purely by student need.

That is all positive and indicates that our policy direction and the more practical interventions of the funding council and institutions are delivering outcomes. However, we are far from being complacent. As we are with all access issues, we are ambitious and sharply focused on securing a more equitable distribution of opportunities for all. I look forward to working with the committee to achieve that.

The Convener: Thank you very much, minister.

Cabinet secretary, you mentioned in your opening statement the disability delivery plan and the work that is being done on it. The committee is very interested in that. About 50 per cent of households in poverty have someone with a disability in the household, which is a huge proportion. In order to have the inclusive economy that we want, we must create opportunities for people to lift themselves out of poverty. One of those opportunities is a university education, which can lead to higher-paid jobs and more opportunities. How do you see that playing out in the disability delivery plan? I can see clearly how your portfolio and the minister's portfolio can work closely together on the issue. When the policy is right and the delivery is right, you can make huge changes and give people life-changing opportunities. Can you give us some insight into whether there are specific areas of the disability delivery plan where you can address that?

Angela Constance: Absolutely. What I am about to say applies to FE, HE and modern apprenticeship programmes. All the evidence shows that the longer a young person spends in

education or training, the better their career prospects and therefore the better their income. There are many actions in the disability delivery plan and in the fairer Scotland action plan, which has a huge focus on income inequality and some very specific measures in and around tackling inequality and socioeconomic disadvantage in particular.

I draw the committee's attention to action 20 in the disability delivery plan, which talks about the all-encompassing approach that we need to take, working with schools, local authorities, health and social care partnerships and further and higher education institutions, and focusing in particular on transitions for young people with disabilities. The transitions include starting school, going from primary to secondary school, going from secondary school to post-school destinations and then, crucially, going from university or college into work. We know that even when young people have significant educational achievements, those do not always translate into the workplace.

That focus on transitions is crucial and requires a change of mindset. We need to continue to evolve our ways of working. It is easy to talk about partnership working, but partnership working is absolutely crucial when it comes to transitions. There are many actions in the disability delivery plan that are indirectly or directly relevant to supporting young people to pursue their dreams of participating in higher education, but there are particular actions—such as action 20, with that focus on transitions—that are crucial.

The Convener: I whole-heartedly agree with you.

Alex Cole-Hamilton: Good morning, and thank you for your time this morning. Cabinet secretary, in the debate in Parliament last week, I complimented the Government on its intent to bring forward a framework for children and families affected by disability—it is absolutely high time for that. I am very interested in the framework's content, what it will look like and the resource behind it.

Nearly 10 years ago, England and Wales got its own strategy for disabled children, "Aiming high for disabled children". With that came a consequential of £36 million, but because of the presumption against ring fencing that money went straight into local authority grants and did not go to children with disabilities. I think that we still have a way to go to catch up on that. Without pre-empting the budget and the financial settlements—obviously, you cannot talk about those—can you reassure us that the plan will be adequately resourced?

Angela Constance: Yes, I firmly believe that the disability delivery plan will be adequately resourced. I went back to the *Official Report* to

read the speech that Mr Cole-Hamilton gave in the debate that my colleague Jeane Freeman led last week, because it had been highly commended to me, along with Mr Balfour's speech. I was particularly struck that Mr Cole-Hamilton spoke about the life stage or life span approach, which is very important.

In my opening remarks, I pointed to the fact that we have protected the equality budget; I can also point to the fact that over a period of tough times we have protected the third sector budget. I believe that the empowering communities fund also has an important role to play in relation to participation and changing mindsets about who should be deciding how resources are spent.

The point is that, if one in five people have a disability, what are we doing with all our resources? As the equalities minister I can point to the equalities budget and the third sector budget, but it is actually about the spend right across Government, in education and health. We need to ensure that, particularly with those large universal services, people who are disadvantaged in some way get their fair share of core services and resources, so that the additional resources in the equalities budget actually add value.

I would not for one minute demur from the importance of investment, and continued investment, but there is something quite fundamental about the fact that we should be doing that anyway. We all want more resource, but, irrespective of the size of the resources involved, this is about attitudes, culture and how we deploy and prioritise resources. I suppose that what I am trying delicately to point at is that people cannot say, "We will not do this unless you give us extra money". Actually, we all have to do this; it is the business of all of us and we have to ensure that all the arrows across the massive investment that is made across the public sector point in the right direction.

Alex Cole-Hamilton: Therein lies the rub: it is about matching rhetoric with reality. We would do well to take party politics out of the issue and try to work on it together.

One of the challenges for us is transitions, which you mentioned in your opening remarks. In particular, moving young people with disabilities from education into employment is one of the biggest challenges in our community. A significant metropolitan authority in Scotland, which I will not name, declared in its 2011 single outcome agreement that it wanted to get 200 17 to 19-year-olds with disabilities into the workplace by the next iteration of its single outcome agreement. When that iteration came around, it turned out that that authority had succeeded in getting only 11 17 to 19-year-olds with disabilities into employment. However, nothing happened—there is no sanction

and no accountability. That is a separate problem with the single outcome agreement process.

That elegantly delineates the problem that is before us. We in the political classes all agree that we need to do more to break those barriers down and help young people who have much to contribute, even though they may have a disability, into the workplace. That is a significant challenge. What can we do differently that we have not done so far to close that gap?

Angela Constance: When Jeane Freeman and I were pulling together the fairer Scotland action plan and delivery plan, we worked very hard to ensure that the actions were indeed actions and not just rhetoric. It is very easy to talk about our ambitions, philosophy and approach, but members will see in those documents actions that are about doing things and, in some cases, doing things differently.

On our partners in the university sector and local authorities, and their various outcome agreements, it is important that those agreements evolve over time and that we focus on what we will do as well as on what we are saying.

Scrutiny is important, as is saying what our ambitions are and what we will do. Rather than just publishing a plan and then moving on and saying, "What's next?", we have to stick with things for the long haul, monitor their progress, and understand the data, because that leads to transparency.

We know that the local authority that you mentioned did not meet its ambition. Therefore, there is scrutiny of that and transparency around it. I hope that that will lead to the situation being redressed and to people thinking about what more they can and must do.

Jeremy Balfour: Thank you very much for coming to the meeting.

There is cross-party support on the transition issue, and what the cabinet secretary has said is very helpful, particularly for those with a fairly severe disability—learning difficulties or physical disabilities—and how we work with them and their school to get them into employment. We need to work on that, and I am grateful for the cabinet secretary's comments.

My question is aimed at the Minister for Further Education, Higher Education and Science. In the past few weeks, we have heard quite a lot about universities trying to open their doors more to people with disabilities, but there seems to be almost a hierarchy of disability. If a person has a certain disability, it is—comparatively—reasonably easy for them to get into university, whereas if a person has a more complex disability, it is quite difficult to get in.

I wonder whether, without asking you to commit any money to this, the Government and universities will look at doing research not on how many disabled people are in universities or colleges—we already have a breakdown of the different types of disability in them—but on what we can do to help those who have complex disabilities to get into university or college and how we can encourage colleges and universities to do that?

10:45

Shirley-Anne Somerville: You raise an important point about the good practice that is going on in higher education institutions, and Universities Scotland's submission details some of that good practice.

We have good practice and it needs to be embedded across the board. Part of that lies outwith the universities and is about the cultural change that the cabinet secretary mentioned. There are also the statutory obligations of a university: the university has anticipatory duties to look at what it is delivering and how it is delivering it.

A lot more can be done to question and analyse what is going on. That will help not only those who have a disability, but students from different backgrounds, such as those who have caring responsibilities and so on. Each university has an obligation to step back and analyse that. They are doing that and their statutory obligations should ensure that that happens. The Government and the funding council have an important role in coming to facilitate such discussion and to ensure that good practice is shared.

I also took from the evidence that the committee heard that it is not just enough to speak to those who are at university; we need to speak to those who feel unable to apply or who fear that they will receive insufficient support when they get there. We have lessons to learn on all that, some of which are for the universities as autonomous institutions and some of which are for the Government to take on board.

Jeremy Balfour: There are outcome agreements and we talked about them with the previous witnesses. As somebody who is fairly new to this, I think that those agreements have lots of carrots but not many sticks. Do we need to rebalance how we address the outcome agreements? We want to encourage and to show good practice, but perhaps we need to use a bit of a stick too? I am thinking particularly of faculties. At the top level, the principals or the court absolutely buy in but, if you go down to the lecturers, they are the individuals who are causing problems for the disabled students. Again, looking

at this going forward, without being too cruel, can we have some sticks?

Shirley-Anne Somerville: Outcome agreements are still quite a new concept. They have delivered a lot for universities and colleges to ensure that we are looking at the outcomes and that we have a baseline analysis. Because the concept is new, it is only right that we take a step back periodically and review the agreements, and we are going through that process with the funding council at the moment to see whether there is necessarily a different way of doing things and whether the agreements can be strengthened.

It is also important that the agreements are effective. Mr Balfour is quite correct; they should not just be documents that sit on the shelf and that we have discussions about. Something should follow from them. The funding council and the Scottish Government have a variety of funds that we can give to different universities to help with, for example, widening access. If we need to learn from how we facilitate those funds and how they are distributed among the institutions, the outcome agreements and how they are implemented are important to that.

I take Jeremy Balfour's point that we need carrots and sticks, and during the review of the outcome agreements, I am open to seeing whether we have that balance right. It is only right that we take a step back to have a look at that.

Angela Constance: With your indulgence, convener, I thought that it might be useful to say something about public sector equality duties. The general duty under the Equality Act 2010 talks about how public authorities, including universities, while they are exercising their functions, have to eliminate unlawful discrimination, advance equality of opportunity and foster good relationships between those with and without protected characteristics.

That all points to the need for a proactive response. The public sector equality duties are listed in the specific duties regulations, such as to undertake equality impact assessments on new or revised policies and practices and to publish the results. That is an important strand of the duties that all education institutions are subject to, in terms of making what they are doing transparent and assisting the evaluation of that.

The Scottish Government's responsibility is to help public authorities to exercise their responsibilities with regard to the equality outcomes. We are running a project called SNEIP—the Scottish national equality improvement project—in which we are working in partnership with the Equality and Human Rights Commission, Close the Gap and the Equality Network to look at how we bring forward a

programme of work that helps the public sector to fulfil its duty. We are currently considering SNEIP's work plan for 2017, which offers an opportunity for us—in addition to reflecting on what we need to do on our disability delivery plan as a result of the committee's deliberations—to look at how we help areas of the public sector to comply with those very clear duties. The Government and its partners need to focus on that workstream.

It is worth noting that the EHRC is the regulatory body that seeks to ensure that the public sector complies with the 2010 act, so, although there is a lot that the Government can do, we must respect the EHRC's role.

Mary Fee: I echo the comments from my colleague Jeremy Balfour, because I too would like to see a bit more stick and a bit less carrot. In the evidence that we have heard in the past few weeks, universities and higher education institutes have acknowledged that they need to do more. They recognise that they have students who have a range of disabilities and that they should be supporting them. However, unless the disability is a soft disability, the situation can become very difficult, and the lengths to which students need to go to get the support that they require is simply not acceptable.

I welcome the cabinet secretary's words on the disability delivery plan and the associated action, which brings me back to the carrot-and-stick question. If there are actions, there must be consequences. Can you expand on what you would expect those consequences to look like?

I will go back to a question that I asked the previous panel. In 2004, the University of Edinburgh did a study on disabled students in higher education and, in taking evidence over the past few weeks, the committee has heard many things that are the same as those that came out of that study. A number of action plans have been published, and a number of recommendations have been made, but 12 years down the line things have not improved. Unless the disability delivery plan has teeth and sticks, nothing much will change. I would like some reassurance, and perhaps some indication of what any consequences might look like.

Angela Constance: That is a broad question. Each portfolio that is involved in delivering the plan will take an approach with a different shape and scope, which will reflect the different statutory responsibilities of colleagues across Government.

I am clear about what the law says. Although the EHRC is the regulator that deals with non-compliance with the 2010 act, it is important that neither Government nor our partners are defensive and that we all accept that there is more

to do. We all need to look for the opportunities to enable us to pick up the pace.

It is difficult to talk about sanctions without referring to specific actions and acknowledging where the powers over specific areas lie. We must be conscious that sanctions can be counterproductive, although they can sometimes be effective. The Government can take a range of actions that do not have to involve the financial sanctions that tend to spring to mind.

As the cabinet secretary for equalities, I am clear about the law as it applies to the Government—we are under scrutiny on that. There are things that we need to do better on this journey. We need to incorporate a human rights approach in all our actions as we take forward our programme for government commitments in relation to how we engage with people and how we can embed further economic, social and cultural rights. Some of that journey will not be comfortable for the Government or our partners, but a light needs to be shed, and we must face up to our discomfort and focus on actions that will make life better for people.

Mary Fee: Can I—

The Convener: I am sorry, Mary, but the minister wants to come in.

Minister, earlier I asked the funding council about how decisions about the disabled students premium are made, how the funding is allocated and whether it is ring fenced. On the back of Mary Fee's question, could that be used as both a carrot and a stick to enable change?

Shirley-Anne Somerville: The premium is an interesting budget. The review of student support is looking at the support that is provided for all students, including those with disabilities. I had already said that I was open to that review looking not just at the allowance, but at whether that premium supports students with disabilities. If it does not, we must question whether it is going in the right direction and whether it is being used correctly. I had already sent that message to the review—I had asked it to analyse the premium when it looked at the support that is provided for disabled students.

I would be more than happy to see what comes out of that review and to feed in any questions that are raised as a result of the committee's work. It is an independent review and it is not for me to set the review group's work plan, but the issue has already been highlighted to it.

It might be helpful to look at one of the specific action points in the delivery plan on the workings of the Student Awards Agency for Scotland. One of my first visits as a minister was to SAAS, where I heard a presentation from Who Cares? Scotland.

Someone from a care-experienced background went through how SAAS had changed its entire application process to ensure that it worked for them. The change was very much led by users of the system. Who Cares? Scotland was a lot happier with the outcomes and with the way in which care-experienced young people are now dealt with through SAAS.

There is an action point on SAAS looking at disabled students who go through the application process and analysing whether anything needs to change. I was greatly heartened by the work that the agency had done with people from a care-experienced background, and I will look closely at what it does when it comes to disabled students with that action point in mind. I take great heart from the work that SAAS did and the very proactive way in which it engaged with people to find out whether the system worked and to test it thoroughly. We now have a system that, on that aspect, is much better. We can look at that for disabled students. That is one action point that I am confident that SAAS will deliver on.

Mary Fee: I am sure that no one at the table wants it to be the case that, in 10 years' time, another committee will be looking at the issue and talking about the same problems that we have talked about in the past few weeks. That is why it is so important that any delivery plan delivers meaningful change. I appreciate the minister's comments.

Willie Coffey: I want to go back to the admissions process and the role in that of the personal statement, which is an issue that I have raised at every meeting. John Kemp from the funding council said that there is no direct monitoring of that aspect of the admissions process to ensure that we can see that it meets all our obligations in respect of equality of access.

However, Fiona Burns, who spoke after John Kemp, said that there is some work under way to examine how non-academic factors are considered in the contextualised admissions process. Could you tell us more about that, so that we can get some understanding of how and whether that aspect of the admissions process is fair?

11:00

Shirley-Anne Somerville: It would very much help for the entire admissions process to be a lot clearer and more transparent. That is something that would help not only disabled students but potential students from a variety of socioeconomic and demographic backgrounds. There is a requirement for more transparency, so that those who are looking at a college or university are able to understand the options that are open to them

and can make a choice about where they would like to study based on the best information.

Personal statements were looked for by the commission for widening access, and that is an area of concern because it can often be difficult for those from a socioeconomically deprived background to complete a personal statement in the way that those from a more advantaged background can. Personal statements and non-academic statements need to be looked at and we have to be clear about what role they should or should not play. I expect the commission to look at that when it is looking at admissions policy.

Contextualised admissions are somewhat broader than that. Personal statements are only one aspect that could be part of a contextualised admissions process, so you could look at different gradings for the same course, depending on a person's background. That is a different type of contextualised admission that does and should play a more important role in admissions, but Mr Coffey is quite correct to say that that should be done in a transparent way. There is no point in any institution having a process that people do not understand and therefore cannot take advantage of, so the requirement for transparency is important. The admissions process for each university, as an autonomous institution, is up to that university, but we do have a certain basic understanding of what that should look like. It should be open, transparent and easily understandable, and should allow for a fair process of admissions so that people can access university.

Willie Coffey: Will we be able to see the data from each university that is gathered over the next few years, so that we can see how universities are treating the process and can come to a view on whether admissions are being dealt with by an objective and fair method?

Shirley-Anne Somerville: I think that we will have to. Part of the commissioner's work will be to challenge the Government and the institutions, and admissions are an important part of that process. After all, that is the gateway into university, so I am sure that that will be an important part of the commissioner's work.

Willie Coffey: Correct me if I am wrong, but I think that the target is that, by 2021, 10 per cent of students at every university should come from the more disadvantaged 20 per cent of backgrounds. Some good news—a figure of 10.9 per cent—was reported this morning, but that is an overall figure.

When will all the universities meet that target? The current data shows that four universities—Robert Gordon, Aberdeen, Edinburgh and St Andrews—have never reached 10 per cent in the previous 10 years, so what will the Scottish

Government do to encourage them to meet the target and to deliver on it for students who are in that category?

Shirley-Anne Somerville: You are correct to say that the figures that were released today show that we are at a historic high for those who come from the most deprived communities, but we are by no means complacent about that, because we are still far short of the targets that we have set, both for higher education in general and for each institution. Every institution comes from a different starting point. Some will find the target more challenging than others, but they are all obliged to reach the targets and they have all signed up to the targets.

Some aspects will be easy for universities to put in place and others will be more challenging. That was one important reason why the commission's report suggested that we should have a commissioner to drive the work forward who is independent of the Government and able to challenge the Government and the institutions. I cannot give a timescale for when each institution will reach the target of 10 per cent, but we have set that target, the whole sector is signed up to it and we will work to make it a reality.

We fund widening access places but, as Russell Gunson said in his evidence, an attitudinal and cultural change is required in higher education, and that will require a greater and faster step change than we are seeing. For some institutions, that will be challenging, but they are obligated to do that.

Willie Coffey: I know that the date by which the target must be met is 2021, which is five years away, but what will happen if institutions do not meet the target? My friends were talking about carrots and sticks earlier. If the targets were not met, would there be adjustments to funding arrangements, for example? We have to be serious about the issue. The committee is concerned with equalities and we want progress—we do not want to be sitting here in five years' time sending the same message.

Shirley-Anne Somerville: I fully appreciate that we need to deliver the target, which is an important priority for the Government and for the education ministers in particular. Carrots and sticks are involved in the approach. We already fund widening access places and have a number of policies in place to support that. We will see over time whether that position needs to change.

As I said, it will be easier for some institutions to hit the targets than it is for others. We will have to look at the outcome agreements and at the arrangements that are in place for universities. However, I hope that the committee is in no doubt about how seriously the Government takes the

issue—it is a political priority—and how passionate the commissioner will be about driving it forward.

Annie Wells: My question also follows on from our earlier evidence session. We say that we want equality for everyone, particularly in the university application process. The committee spoke previously to a witness who is a BSL user and who said that he found it difficult to complete his application in written English, because that is not how he communicates with people. Could there be an opportunity for personal statements to be made by using BSL as part of a video presentation, for example, or via some other means for people who have other disabilities? That might make the process fairer.

Shirley-Anne Somerville: The cabinet secretary mentioned some of the statutory requirements that are on universities, and the application process is an important part of that. We cannot have a process that is closed to parts of the population because of the language that they use. The application process needs to be open to all. I read with great concern the evidence that the committee received about people's difficulties with completing the application process, and I noted that there is a stage before that, at which some people feel that they should not even bother applying because it seems as if the system is not for them.

We need to ensure that there is a cultural change not only in our universities but in our schools and careers advice services, as well as a systems change, so that, when disabled pupils are at school, they feel encouraged to apply to university and are supported in their attempt to do so, and so that the universities fulfil their obligation to ensure that the application process is open to all.

Angela Constance: Parliament is well aware that, by law, BSL has to be treated as and respected as a minority language. We have to be proactive and flexible about how we turn words into actions in meeting general equality duties in the public sector overall.

I point to a couple of actions on higher education in the disability delivery plan. The first is that the Student Awards Agency for Scotland

“will work in partnership with disabled students and stakeholders to deliver an increasingly accessible application process”.

That should include a range of methods to enable people to communicate, and the agency will improve the advice and guidance in that area for all students with additional support needs, and particularly those with a disability.

The plan also says that

"From 2017 the Scottish Funding Council ... Outcome Agreement guidance will require colleges and universities to produce an Access and Inclusion Strategy that defines their inclusive practices".

That is quite specific and sets out what colleges and universities will be required to do to reach their aspirations.

Annie Wells: How will that be measured?

Angela Constance: Measurement is part of any outcome agreement process. The plan has to be clearly articulated and it is helpful if it is as specific as possible and can therefore be easily measured. Any evaluation or progress report needs to be published so that there is transparency, too.

On the balance between carrots and sticks, which is very festive, convener—

The Convener: We could change it to mince pies and snowballs, if you prefer.

Angela Constance: It is important that we keep our eye on the ball. We need to consider our options—whether we use carrots or sticks—as we move forward. Indeed, carrots and sticks are not just for Christmas.

At the end of the day, we focus on what works. As the Government, we have the right to consider, case by case, what sanctions would be helpful in moving forward a particular agenda.

Shirley-Anne Somerville: We are looking into having discussions with UCAS about the application process from its point of view. Discussions are on-going with the stakeholders that the cabinet secretary mentioned, particularly on that issue. I hope that that reassures Annie Wells. In addition, we are looking to ensure that we have a process that fulfils the obligations in the BSL legislation in particular. The discussions with UCAS can continue, too.

The Convener: Another side of Annie Wells's argument is about students being able to take exams in BSL if English is not their first language. I hope that the ministers can add that to their extensive list.

In session 4, our predecessor, the Equal Opportunities Committee, commended equality impact assessments. I have to say that I have a bit of a bugbear about them, because they are only as good as the quality of the information that is contained in them. How is the equality impact assessment process used to ensure that anything that is contained in the draft budget does not have a negative impact on the equality programmes?

Angela Constance: We have gained considerable experience in the broad approach that we take to our equality budget process. This is the eighth year that we have included, as part of our budget process, the equality budget

statement. We are helped in that process by independent people. It is not just internal Government people who are involved but COSLA, academics and the Joseph Rowntree Foundation.

I agree that equality impact assessments depend on the quality and precision of the information that is contained in them. Some stakeholders would say that Scotland is a world leader in the process, but I have no doubt that the process has to evolve and be refined. We have to learn from the experience of doing it and apply that to the future.

11:15

The Convener: That exhausts our evidence taking. We are on the button time-wise; I know that the ministers have questions in the chamber soon.

The inquiry's narrow focus is on the budget, how the money is spent and whether the outcome of that spend works, but the committee's broader focus is on equality duties, human rights and a rights-based approach. In a wider context, we may want to pursue elements that have arisen from the evidence that we have taken. Are you both okay for us to write to you to continue to seek clarification, information or advice on some of that work?

Angela Constance: We are always happy to oblige, convener.

Shirley-Anne Somerville: Indeed.

The Convener: Merry Christmas. I thank you and your officials for your attendance, which we really appreciate.

We move into private for agenda item 3, which is further scrutiny of the draft budget.

11:15

Meeting continued in private until 11:25.

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