

**Report to the Secretary of State under
The Disability Discrimination Act 1995
for 1998-99**

FEFC

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From the Chairman
Lord Davies of Oldham

20 December 1999

The Rt Hon David Blunkett MP
Secretary of State for Education and Employment
Department for Education and Employment
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**THE
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EDUCATION
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COUNCIL**

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Dear David,

Council's 1998-99 Report Under the Disability Discrimination Act 1995

Under the *Disability and Discrimination Act 1995*, the Council is required to produce an annual report setting out work it has undertaken in provision of further education for students with learning difficulties and/or disabilities and its plans for future provision.

The attached report was endorsed by the Council at its meeting on 8 December 1999. Council staff look forward to discussing the report with your officials.

Best with
Byc.

Introduction

1 This report fulfils the Council's duty under the *Disability Discrimination Act 1995* (DDA) to produce an annual report to the secretary of state on:

- a. the progress made during the year to which the report relates on the provision of further education for students with learning difficulties and/or disabilities; and
- b. its plans for the future provision of further education for students with learning difficulties and/or disabilities.

2 The report covers the Council's 1998-99 financial year.

Background

The Council's legal responsibilities

3 The Council's legal responsibilities towards students with learning difficulties and/or disabilities derive from the *Further and Higher Education Act 1992* (the Act). Sections 2 and 3 of the Act require the Council to secure facilities for further education which are sufficient and adequate for the population of England. This should be done in a way which avoids disproportionate expenditure and makes the most effective use of the Council's resources.

4 Under section 4 of the Act, the Council has a duty to 'have regard to the requirements of persons having learning difficulties' and to secure provision at a specialist establishment outside the sector where provision in the sector is not adequate to meet an individual student's needs.

5 The DDA places a duty on the Council to require further education colleges, as a condition of grant, to publish annual disability statements. The DDA defines a disability statement as a statement containing information about the provision of facilities for education made by a college in respect of people with disabilities.

Council's Fulfilment of its Duties

6 In continuing to implement the recommendations of the learning difficulties and/or disabilities committee (the Tomlinson committee), the Council has funded a second year of the inclusive learning quality initiative, one of the main recommendations of the committee. The quality initiative is intended to assist institutions in improving standards in teaching and learning and in responding to the individual requirements of learners.

7 In 1998-99 £2 million has been allocated to provide support to all sector colleges, external institutions and specialist colleges outside the sector from facilitators trained in the use of the inclusive learning staff and organisational development materials. Institutions have prepared action plans and are working with the facilitators to implement these plans. The Council has also made a further £2 million available for 1999-2000 to support continued work on the initiative, which will be extended to involve higher education institutions that receive Council funding.

8 As part of its response to the Moser report, the Council is also supporting another initiative, funded from the standards fund, modelled on the inclusive learning quality initiative, which is aimed at improving basic skills. The intended outcomes of this basic skills quality initiative are:

- improvement in the standards and quality of basic skills
- improved experience for learners
- increase in the volume of learners participating in basic skills
- improvements in institutions' retention and achievement rates in basic skills
- improvement in the United Kingdom's rating in literacy and numeracy in the European league table
- higher quality contribution from further education institutions in learning partnerships
- improvement in people's capacity to work and progress in education and employment.

9 The initiative will draw on good practice in institutions. Twenty-four institutions are involved in developing the staff and organisational development materials on a number of areas of basic skills for use in institutions, which will be available to all institutions for the 2000-01 teaching year.

10 The inclusive learning steering group, which advised the Council on the implementation of the recommendations of the Tomlinson committee, held an anniversary meeting in December 1999 to review progress and developments since the publication of its final report in December 1998. The group will also advise on issues of particular relevance for students with learning difficulties and/or disabilities which should be taken forward to the Learning and Skills Council.

Provision in Sector Colleges

Funding

11 The Council's funding methodology has since 1994-95 contained an element to provide additional funding units for those students who require additional support for their learning. The funding arrangements recognise the costs involved in providing, for instance, additional teaching, interpreting or personal care.

12 Table 1 below gives details of the growth in the number of students for whom additional support units were claimed in the period 1994-95 to 1997-98.

Table 1. Students receiving additional support in colleges, 1994-95 to 1997-98

Year	Number of students	Additional funding per student £	Total funding £ million
1994-95	75,600	1,327	100.3
1995-96	97,700	1,295	126.5
1996-97	116,100	1,225	142.2
1997-98	130,000	1,385	179.5

13 The Council commissioned an evaluation of the impact of the additional support mechanism from the Further Education Development Agency (FEDA). The Council is to consult sector institutions on FEDA's recommendations during 1999-2000 including on the overall number of support bands within the funding tariff.

Strategic planning

14 The Council's strategic planning framework for the sector requires colleges to analyse local needs. Colleges are asked to take account of the educational needs of people with learning difficulties and/or disabilities.

15 The Tomlinson committee recommended that the Council's regional committees monitor the sufficiency and adequacy of provision for students with learning difficulties and/or disabilities in each region. In 1998-99 the Council undertook a pilot exercise to map provision for students with learning difficulties and/or disabilities within the Council's Northern, South East and South West regions. The pilot included liaison with local education authorities, social service departments, careers services, sector and specialist colleges within the designated areas. The results of this pilot are to be taken forward during 1999-2000. Reports will be taken to the Council's regional committees in the spring 2000 cycle of meetings, setting out the sufficiency and adequacy of provision for students with learning difficulties and/or disabilities in designated Local Learning and Skills Council (LLSC) areas.

Funding of information technology for students with learning difficulties and/or disabilities

16 For 1998-99 the Council allocated additional funds to colleges totaling £5 million (£2.5 million from the DfEE, £2.5 million from FEFC) to provide extra information technology equipment for students with disabilities. The majority of institutions indicated that they wished to take up this allocation. The funds enabled institutions to purchase equipment and software that could facilitate the enrolment of new students and enhance the learning experience of existing students.

17 The Council has established arrangements to evaluate the numbers of students assisted by this initiative and will invite institutions to share examples of good practice. This evaluation is to be included in a report to the further education information and learning technology committee (FEILT).

Non-schedule 2 pilot projects

18 In 1998-99 the Council issued Circular 99/16 inviting applications for funding for pilot projects to develop non-schedule 2 provision in 1999-2000 for adults from disadvantaged backgrounds. This included people with mental health difficulties and those with profound and multiple learning difficulties.

19 Around 100 applications were received from strategic lifelong learning partnerships to fund non-schedule 2 pilot projects. Of these the Council will support around 40 projects for over 20,000 students. The Council will evaluate these projects during 1999-2000.

Quality of provision in the sector

20 In his report *Quality and Standards in Further Education in England, 1998-99* the Council's chief inspector makes the following observations about provision for students with learning difficulties and/or disabilities:

- the best lessons focused on practical activities. In weaker lessons, there is often a mismatch between the stated aim of a lesson and the content and teaching methods used. Too often the requirements of an awarding body rather than the needs of the students dictate the content of lessons. Teachers organise too many whole-class activities
- many students develop confidence and self-esteem. Some progress to higher level vocational courses and to employment. However many repeat work they have already covered and learn little. Students' achievements are often poorly recorded and are sometimes limited by teachers' low expectations
- vocational programmes at foundation level enable more students to progress. In programmes designed for students with cognitive impairments, curriculum development is weak, with too much emphasis on the teaching of literacy and numeracy skills. Initial assessments are often ineffective and individual learning programmes do not match students' needs. Such programmes often emphasise students' weaknesses and give them little opportunity to build on their strengths
- many colleges have improved accommodation and equipment for students with physical impairments. Students with cognitive impairments, however, sometimes have to use poor-quality or inappropriate accommodation
- some teachers are skilled in teaching students who have visual and hearing impairment and specific learning difficulties such as dyslexia. Few are skilled in

meeting the needs of students with severe, complex and challenging learning difficulties.

21 Inspection grades for 1998-99 in programme area 10, which includes provision for students with learning difficulties and/or disabilities, include 54% of lessons judged to be good or outstanding and 13% judged unsatisfactory or poor. This is considerably worse than the average profile of grades for all programme areas. The inclusive learning and basic skills quality initiatives should result in an improvement in the profile of inspection grades in programme area 10: basic education, during 1999-2000. The Council will report on the expected improvement in its report for 1999-2000 to the secretary of state.

Accommodation

22 The Council continues to encourage institutions to enhance their facilities for students with learning difficulties and or disabilities and in particular access to buildings. The Council consulted colleges in 1998-99 on the revised arrangements for capital project support for 1999-02. £12 million is to be allocated between 1999 and 2002 specifically for the purposes of improving access and facilities for students with learning difficulties and/or disabilities.

Sector Colleges' Disability Statements

Disability statements 1998-99

23 For 1998-99, as in previous years, the Council received statements which conformed to the requirements of the legislation from all colleges in the sector. The regulations from the Department for Education and Employment (DfEE) are not prescriptive about the format of the statements.

24 The Council commissioned FEDA to work with colleges in evaluating the effectiveness of their 1998-99 statements. This analysis was completed during autumn 1999 and a good practice guide for the sector on disability statements is to be published in spring 2000.

25 Initial findings from FEDA's analysis indicate that there is a wide variety of styles and content of disability statements. The report suggests sector colleges may wish to consider:

- how to consult students to ensure that statements are responsive
- the format of statements
- presentation in a clear, welcoming and unambiguous language
- how all staff can be made aware of the statement
- distribution and student awareness of the existence of the statement, including prospective students.

Provision in Specialist Colleges

26 Under section 4 of the Act, the Council has a duty to secure placements for students at specialist residential colleges where adequate facilities are not available at a college in the sector.

Placement arrangements

27 The arrangements by which the Council considered recommendations for placements at specialist colleges during 1998-99 were published in Circular 98/03.

28 The Council has a formal agreement with local authorities through the Local Government Association (LGA) which provides for them to assess student needs against the Council's published criteria and make a recommendation to the Council to fund a student placement, where the proposed placement falls within the Council's legal duties and published criteria.

29 In 1998-99, the Council met its operating plan target of 95% of decisions to be made within six weeks from receipt of a recommendation containing the necessary information. The number of incomplete recommendations from referring agencies (1,063 out of 1,771) remains a cause for concern. This matter will be central to the regional offices' discussions with the referring agencies.

30 In 1998-99, the Council funded a total of 2,051 students at an average fee of £21,014 per student at specialist colleges. Of these, 1,510 were new students while 541 were continuing on programmes previously agreed.

31 The Council declined to fund 82 recommendations during 1998-99. The main reasons for these decisions were that the recommended programmes did not fall within the Council's duties to fund or that the sector could adequately meet the students' needs.

32 Where the Council declines to fund a recommendation for a student to be placed at a specialist college, the student may seek to have the decision reviewed by an independent appeals panel. During 1998-99, the panel considered 11 appeals, in five of which the original decisions were upheld. In the six other cases the Council was asked to reconsider its decision and the student placements were subsequently funded.

33 The Council is considering ways of making the appeals process more accessible and is preparing additional guidance for students and their parents and/or advocates.

New approach to funding for 2000-01

34 During 1998-99 the Council continued to take forward a recommendation of the Tomlinson committee that the Council should continue the policy of convergence between fees for comparable provision at specialist colleges. PricewaterhouseCoopers produced a report for the Council on proposals for a new funding mechanism for specialist colleges. This proposal was based on a matrix of the support required by students to access their learning programme and students' learning difficulty and/or disability. The Council consulted on these proposals and was advised by the fees project steering group, which consisted of colleagues from specialist colleges.

35 The Council has since agreed these proposals, at its June 1999 meeting (*Council News No. 54*), as a new approach to funding student placements from 2000-01.

Capital grant scheme

36 The Council has agreed to allocate £400,000 in capital grant up to the end of March 2000 to the specialist college sector.

Quality

37 The Council's inspectorate continues to inspect establishments before the Council agrees to fund student placements. From its ongoing programme of inspections at establishments with Council-funded students, the inspectorate has made the following observations on the quality of provision in the specialist sector:

- almost all the establishments are residential and their provision is diverse
- during 1998-99 the Council funded placements at 76 specialist colleges; in 36 establishments the Council funded fewer than 10 students; in the four largest, it funded between 100 and 150 students
- students had physical, sensory, intellectual, emotional or behavioural difficulties. Many students had a combination of difficulties
- students had more significant and complex difficulties than was the case five or 10 years ago
- 15 establishments were inspected in 1998-99 and 73% of provision was good or outstanding. No provision was less than satisfactory.

Future Developments

38 The Council is continuing to take forward initiatives in inclusive learning and basic skills at sector and non-sector institutions. The pilot projects for non-schedule 2 provision began in September 1999. The Council will continue to work to implement the new approach to funding establishments outside the sector.

39 The Council will work closely with colleagues from the department for education and employment on a way forward into the Learning and Skills Council to continue to promote provision for students with learning difficulties and/or disabilities.

Conclusion

40 The Council continues its commitment to have regard to the needs of students with learning difficulties and/or disabilities and to enable both sector and specialist providers to improve the quality and value for money of the provision.