



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

Y Pwyllgor Archwilio  
Audit Committee  
Bae Caerdydd / Cardiff Bay  
Caerdydd / Cardiff CF99 1NA

Jane Davidson AM  
Minister for Education and Lifelong  
Learning  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

12 May 2004

Dear Minister,

### **Compliance with disability legislation in the further education sector**

In August 2003 the Audit Committee published a report on *Management of the further education estate in Wales*. One of the recommendations we made (recommendation (i)) was that "in terms of meeting their obligations under the Disability Discrimination Act 1995, [further education] institutions should, with the support of the [National] Council, as a minimum address immediately and with the utmost urgency those works which should already have been implemented."

The background to this was a finding of the Auditor General for Wales that an exercise undertaken in 2001 had identified that there was over £20 million of work required in order to make the further education estate compliant with the Disability Discrimination Act (DDA) 1995, and that about half of this work should, under the legislation, already have been carried out. The slow progress being made by institutions also made it highly unlikely that the remainder of the work would be completed by its due date of October 2004.<sup>1</sup> Our particular concern was that students with disabilities might be deterred from applying to study due to the lack of appropriate facilities. In view of the importance we attached to this issue, we asked the National Council to report back on the progress being made; we received this response in February this year and I am attaching it to this letter.

<sup>1</sup> Auditor General for Wales report, *Management of the further education estate in Wales*, presented to the National Assembly on 13 February 2003



On the extent to which institutions are complying with relevant legislation, the Council has clarified that, following the Special Educational Needs and Disability Act (SENDA) 2001, which amended the DDA 1995, the deadlines for compliance are not quite as exacting as under the earlier legislation. Based on a survey carried out in August 2003, the Council reports that, under SENDA, there is £6.5 million of work that should already have been carried out, with a further £10.5 million required to have been completed by September 2005.

However, this is still a considerable challenge for institutions. Nor does it seem likely that these outstanding works will be carried out soon: according to the Council's monitoring, further education institutions planned to spend a total of £1.5 million of their capital allocations on DDA compliance works in 2003-04. The Council is considering the need for a hypothecated budget for this in 2005-06.

The Council also sets out the action that it is taking to emphasise this priority and to enable the institutions to make progress. This includes providing guidance for an Action and Implementation Plan at each institution and the requirement for each institution to produce an annual Disability Statement on the accessibility of their learning services - Council funding is conditional on these Statements being honoured.

The Council concludes its response by making the point that, under the section of the DDA which applies specifically to such institutions, the colleges in Wales have demonstrated that they have acted as "responsible bodies", taking steps as reasonably practical to avoid discrimination. This is because the legislation recognises that the financial resources of an organisation and its other commitments (including other legislative requirements) will affect the extent to which it is able to make adjustments.

We are satisfied that the Council and institutions recognise the importance of ensuring that their services take account of learners with disabilities. But financial constraints limit their ability to make all the adjustments set out in the legislation. In our view, therefore, the risk we originally identified remains: the sector does not know whether the lack of appropriate facilities might be driving potential students away.

Against this background I thought it appropriate to draw our concerns about this matter to your attention, for you to consider whether you wish to take any action. If you require further information, you may wish to contact Gillian Body, Assistant Auditor General at the National Audit Office Wales (029 2067 8503; [gillian.body@nao.gsi.gov.uk](mailto:gillian.body@nao.gsi.gov.uk)).



I am writing in similar vein to the Minister for Social Justice and Regeneration and the Chairs of the Lifelong Learning and Education and Social Justice and Regeneration Committees.

*Yours sincerely,*

*Janet Davies*

Janet Davies AM  
**CHAIR – AUDIT COMMITTEE**  
Janet Davies AM  
Chair - Audit Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

**Jane Davidson AM**

Minister for Education and Lifelong Learning  
Gweinidog dros Addysg a Dysgu Gydol-Oes



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Cardiff Bay/Bae Caerdydd  
Cardiff/Caerdydd  
CF99 1NA

Your ref:

Our ref: EH/00426-04

Janet Davies AM  
Chair  
Audit Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

6<sup>th</sup> July 2004

Dear Janet,

**COMPLIANCE WITH DISABILITY LEGISLATION IN THE FURTHER EDUCATION SECTOR**

Thank you for your letter of 12 May to the Minister for Social Justice & Regeneration and myself, about progress made by further education institutions in carrying out work to meet the requirements of the Disability Discrimination Act (DDA) 1995 as amended by the Special Educational Needs and Disability Act (SENDA) 2001. I apologise for the delay in replying.

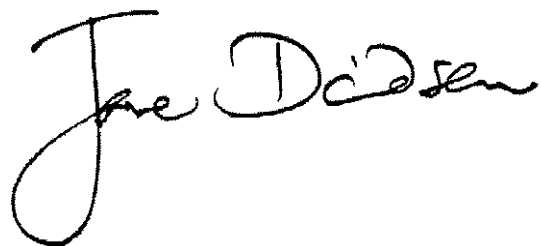
I can assure you that ELWa recognises the priority attaching to institutions meeting their obligations under the DDA. In allocating £11 million of capital resources to institutions for the 2003/04 academic year, ELWa indicated that priority should be given to compliance with legislative requirements, primarily in respect of the DDA. In the current year, I have made available additional resources of £6.5 million to ELWa which should enable the institutions to carry out the highest priority DDA works.

ELWa's Corporate Plan for 2004-2007 emphasises its statutory obligation to ensure appropriate learning for people with special needs. A further objective within the Plan is to ensure that learning locations are accessible to users with disabilities. It is also a condition of ELWa funding that all institutions are required to produce Disability Statements setting out the services and facilities their establishments offer for people with disabilities.



BUDDSODDWR MEWN POBL  
INVESTOR IN PEOPLE

I am copying this letter to the Minister for Social Justice & Regeneration, and the Chairs of the Education and Lifelong Learning and Social Justice and Regeneration Committees.

A handwritten signature in black ink that reads "Jane Davidson". The signature is written in a cursive style with a large, looping initial "J".

**Jane Davidson AM**  
Minister for Education & Lifelong Learning



Cynulliad National  
Cenedlaethol Assembly for  
Cymru Wales

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Audit Committee**

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Jane Davidson AM  
Minister for Education and Lifelong  
Learning  
Welsh Assembly Government  
Cardiff Bay  
CF99 1NA

15 November 2004

*Dear Jane,*

**COMPLIANCE WITH DISABILITY LEGISLATION IN THE FURTHER  
EDUCATION SECTOR**

Thank you for your letter of 6 July in reply to my earlier letter about the progress being made by further education institutions in complying with disability discrimination legislation.

As I had set out in my original letter to you, my Committee has no doubt that ELWa understands the importance of this issue. We recognise the steps taken by ELWa to address it, such as making compliance with legislative requirements a priority within capital budgets and the requirement on institutions to produce a Disability Statement as a condition of funding. In this context the Committee particularly welcomes the additional £6.5 million of funding that you are making available through ELWa to enable institutions to make progress on this matter.

However, we note that £6.5 million might only be sufficient to allow institutions to address the highest priority works to comply with the Disability Discrimination Act 1995. According to the report provided to us by ELWa earlier this year, under the legislation there remains a further £10.5 million of lower priority (Category C and D) work that must be carried out by September 2005. Notwithstanding the efforts that have been made so far, my fellow Committee members and I continue to retain our original concerns: that institutions might be breaking the law; and that potential students with disabilities may be deterred from applying for courses. We should therefore welcome a further update from ELWa, by the end of 2005, which sets out the impact of the £6.5 million additional allocation, the extent to which there remains non-compliance within the sector and the Government's plans for addressing it.



I would be happy to discuss these matters with you further.

I am copying this letter to the Minister for Social Justice and Regeneration and the Chairs of the Education and Lifelong Learning and Social Justice and Regeneration Committees.

*Yours sincerely,  
Janet Davies*

**Janet Davies AM  
CHAIR – AUDIT COMMITTEE**

**Jane Davidson AM**

Minister for Education and Lifelong Learning  
Gweinidog dros Addysg a Dysgu Gydol-Oes



Llywodraeth Cynulliad Cymru  
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Our Ref: JD/01294/04

Your Ref:

Janet Davies AM  
Chair- Audit Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

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December 2004

*Janet*

Thank you for your letter of 15 November 2004 regarding the progress made by further education institutions in complying with disability discrimination legislation.

All institutions recently submitted implementation plans to ELWa setting out their proposals for the deployment of the additional £6.5 million made available for the Disability Discrimination Act (DDA) compliance work. Following analysis of the plans by a specialist contractor, due to conclude shortly, ELWa will have an up-to-date picture of the outstanding work required in the further education sector. Further updates will be provided to ELWa by the institutions in the Spring and Autumn of 2005.

The ELWa funding allocations circular for 2004/05 sets out that FEIs, in utilising their capital allocations, should give priority to undertaking outstanding works required to comply with legislation and to those parts of their accommodation identified within their estates strategy as requiring improvement. The total capital allocations were £11m in academic year 03/04 and £9.422m in academic year 04/05. Figures for the 05/06 academic year are currently being finalised by ELWa- we expect ELWa's draft business plan to be received by the end of January.

The introduction of a capital expenditure line for ELWa, with significant funding in 2006/07 and 2007/08, will support the development of a learning infrastructure fit for the 21st century and address any remaining DDA issues. The amounts available for 05/06



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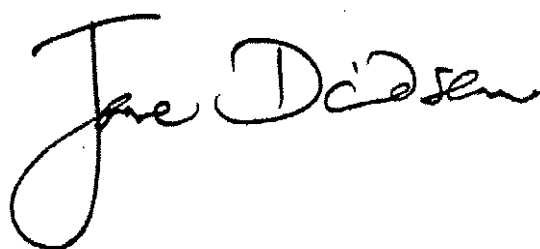


to 07/08 will be for total capital spending in the post-16 (non-HE) sector and not exclusively for FEIs.

As requested in your letter, I will arrange for ELWa to provide the Audit Committee with a further update by the end of 2005.

I am copying this letter to Minister for Social Justice and Regeneration and the Chairs of the Education and Lifelong Learning and the Social Justice and Regeneration Committees.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Davidson". The signature is written in a cursive style with a large, looping initial "J".

**Jane Davidson AM**  
Minister for Education and Lifelong Learning

CC  
Edwina Hart, Minister for Social Justice and Regeneration  
Peter Black, Chair, ELL Committee  
Janice Gregory, Chair, Social Justice and Regeneration Committee