P-05-962 An emergency amendment to extend age of entitlement to additional educational support from 25 to 26 and to define within Government guidance the Covid 19 pandemic as an exceptional circumstance, Correspondence – Petitioner to Committee, 01.06.20

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Dear Petitions Committee,

I apologise if this reply is above the standard sized reply. It is necessary for me to explain it in detail.

PART 1 : INTRODUCTION

I intend to demonstrate three primary reasons why I am extremely disappointed by the Minister's reply to the petition which in light of Covid19 calls for;-

1. The raising of the age of entitlement from 25 to 26 for those disadvantaged by the Covid19 pandemic and
2. An amendment to guidance that influences funding decisions to afford special needs support, so that Covid19 is treated as an "exceptional circumstance" warranting departure from a practice to allow only 2 years specialist funding support for the most complex disabled learners which appear to generate on average around 110 applications in Wales each year.

In her letter dated 20th May the Minister states that she "*recognises the importance of ensuring suitable educational provision is made available to all learners*" but insofar as guidance she considers;-

a. as the Government has "*agreed to continue funding until the end of this academic year (July 2020) for those....disrupted by Covid19*" and
b. because the existing policy provides "*flexibility*" (*an exceptional circumstance test*) to consider a longer duration of study where an application is supported by a Carers Wales assessment (A section 140 Learning and Skills Act 2000 assessment) -

she states she is "*not convinced that the policy needs to be amended in light of Covid19."*

In regard to the petition which requests the raising of the age of entitlement for special needs support she similarly states that because

a. That described above and

b. as she states "t*here is no disruption to programmes of study beginning from the next academic year"*

she can see "*no reason at this time to extend the age of entitlement to additional educational support from 25 to 26 years of age*" (section 41(4) of the 2000 Act).

I will set out why the Minister is wrong to have reached this conclusion and why I believe there is a moral, political and legal case for her to act.

There are of a number of things that are wrong about the Welsh Government ("The WG") Guidance generally such that I provide a more detailed analysis of this within appendix A below. I think it generates unacceptable barriers for those burdened by severe disability. I select the passages which I believe are pertinent to this petition immediately below;

The guidance:

There are two documents of particular relevance. Firstly, policy document 196/2017 and 221/2017. The first is said to set out WG "policy and process" by which the Government will make decisions about funding placements for young people aged 16-25 with learning difficulties who require access to specialist provision and the second said to be principally setting out "advice and guidance" on the WG's expectations for the role of specialist FE establishments.

Dealing with the assessment the technical guidance states:

> *In exceptional circumstances, the Welsh Government may specifically arrange for an educational psychologist (EP) to undertake the section 140 assessment of a young person.*

Dealing with the duration of study that a disabled learner may envisage within the specialist sector it states:

> *For the majority of young people accessing specialist provision, the duration will be comparable with the duration of provision available within mainstream FE establishments. However, the Welsh Government will consider applications for a longer duration than two years on an exceptional basis*

But as for those who may be able to demonstrate an exceptional basis it states:

> *Even in these cases, funding is unlikely to be offered for more than two years in the absence of objective evidence demonstrating that the provision identified as necessary to meet the young person's established needs cannot realistically be provided by a study programme of two years*

and insofar as three year courses it states:

> *The Welsh Government will not normally accept an exceptional reason to justify a duration where the programme is described /considered to be a three year 'standard' offer.*

and if a mistake may have been made so as to call for a change of educational programme it states that changes should be brought up as early as possible within the first year as the WG - *will not normally accept any requests to significantly change a provision if it is received after this time in any academic year. The Welsh Government will however consider minor changes to support provision where it is considered necessary throughout the academic year".*

Insofar as listening to the pleas of parents or young disabled people the policy states:

> *While the Welsh Government will take account of the wishes of the young person, their families and/or carers, it does not have a legal duty to fund the specialist provision of their choice; nor does it have a legal duty to fund their programme duration of choice."*

The policy goes on to describe that an assessment of a disabled learner will be undertaken "*to understand the young person's educational and training needs and the provision required*", in the last year of compulsory schooling (aged 16) whereupon these longer term decisions will be made.

Further if a disabled learner needs to learn life skills beyond merely the school day they must leap over the obstacle of para 50 and 51 of the policy which includes:

> *The Welsh Government will fund a placement for a young person at a specialist FE establishment on a day basis where they are satisfied that such provision is necessary……The Welsh Government will only fund boarding accommodation if without it the young person would be denied effective access to the specialist provision established as necessary to meet the individual's identified educational and training needs"*

Importantly at paragraph 84 the policy reads:

> *Requests to extend a young person's placement beyond the programme's original agreed end date will only be agreed in* ***exceptional circumstances****. The Welsh Government will need to be satisfied that the circumstances giving rise to the need for the extension were unavoidable and that the extension is objectively necessary to ensure that the young person's identified educational and training needs are met."*

and at para 92 of the policy it states:

> *"In certain circumstances it may be necessary for a young person to undertake additional specialist provision over and above, and following completion of, the young person's original agreed programme of study. It is not the Welsh Government's policy to routinely fund continuous education and training up until the age of 25. The Welsh Government will not, therefore, usually fund a second/additional programme of study at any specialist FE establishment unless the previous funded programme of study cannot fairly be said to have afforded the young person effective access to further education, or unless* ***very exceptional circumstances*** *have resulted in the young person being objectively deprived of the educational value of the previous funded programme"*

PART 2 – MY RESPONSE :

A. **The Moral Case**

1. Unlike a person without disability, a disabled person with highly complex needs does not have the same choices. Courses of study for them are generally far more expensive than those open for non disabled persons as a disabled person will often require additional facilities and services. Accordingly, suitable educational provision is not in reality so readily available to those with disability.

2. A person with highly complex disabilities requiring for example specialist support will often need to be taught skills that so many of us without disability take for granted. Many will need to generalise skills that they learn in the classroom into other contexts in order to be able to

live more independently and become less reliant upon state help. They may for example need to learn:

i. How to apply mathematical skills in a shop when purchasing food and other essentials.
ii. How to travel independently on a bus, train or car.
iii. How to cope with lining up in queues.
iv. How to tolerate and manage normal societal demands.
v. To develop basic functional skills not merely within the classroom but into their residence and every day life.
vi. Road safety
vii. Internet safety
viii. How to cope with other serious dangers (strangers etc).
ix. How to be safe when taking medication including dosages, handling everyday household items and chemicals (weed killers, sink unblocking chemicals etc).

3. These are examples and are in no way exhaustive. Disabled people may have sensory processing difficulties and feelings of serious isolation which might require them to have access to open space. Being out in a social context alongside others in society is part of their learning process. Being in a social context may therefore be extremely important and indeed critical.
4. All of these facilities and opportunities are lost during the COVID19 pandemic as
    a. They have had to socially isolate.
    b. They have not had access to shops as they would have otherwise.
    c. They would not have been so able to become travel trained. Buses, trains etc are all restricted.

<u>The arguments</u>

5. In essence, society which for them is their critical classroom is so restricted. It is like removing all or at least most of their learning resources. It is tantamount to a student being expected to learn without books.
6. For now 10 weeks have already passed and the restrictions remain and as of today a further three weeks of restrictions will continue to apply taking this to at least 13 weeks. That is at least 13 weeks out of a typical 38 week placement. Over a third of their entire year has been affected by these restrictions and their learning opportunities severely compromised. Indeed, which can be expected, the restrictions continue throughout much of the summer this figure will soon become half of what may be the otherwise last year of their entitlement. To argue that these lost opportunities this year, is met by a Government agreement to fund provision until the end of this academic year, is misguided to say the least. It fails fundamentally to address the impact that this has all had upon them this year in particular. It is tantamount to ignoring the needs of the disabled.

i. Recognition of "*disruption*" without accepting the limited quality of the provision that these most deserving people have received this year fundamentally misses the point.

ii. The argument that the policy affords "flexibility" looks like a reasonable argument at first glance. Yet it fails to stand up to moral scrutiny when comparing this to actual practice. In 2018 I made a freedom of information request to the Welsh Government in which I asked some basic questions and the answers were telling;-

i. In 2015/16 there were 118 applications for specialist college placements and of those 60 were granted a three year period of study. Yet after this guidance the number of those granted a three year programme dropped to only 17 out of a total of 116 applications that year. In the year of 17/18 97 people were awarded instead a 2 year programme. It would be very interesting to know the numbers for 2019 and 2020. Plainly the guidance has been interpreted in practice to seek to limit the study opportunity from 3 to 2 years (leaving aside the fact that there is no good reason to limit a person's learning opportunities at all in this way – England unlike Wales does not seek to do it, as those in England can actually secure support from the state up to and including the year in which they turn 25. Therefore, unlike Wales there is a real opportunity to learn for more than 2 years after school.

ii. The Minister refers to the possibility for those with an assessment to receive extra years of support, yet in the freedom of information answers provided back in 2018, the number people with complex difficulties who had in fact received any assessment throughout a total of three years 2015-18 in support of an application for an extension was in fact an extraordinary zero. Nobody at all received that which the Minister placed emphasis upon. Furthermore only 5 received a further assessment but only when asking for an additional programme of study. Therefore, those who needed to remain on their course for an additional year had received an assessment to support their application. That is deeply unreasonable.

iii. Further given the sizeable population of Wales, and given that the numbers of those who appear to have needed specialist support is on average around 112 each year it appears shameful that no people whatsoever appeared to have been granted an extension under the Welsh Government appeal system. Out of those who might have needed an extension only 13 in 2017/18 were granted. In essence it appears that less than 12% of the complex special needs population in Wales received actual support beyond two years. This, with respect is the exceptional circumstance proviso failing to provide real benefits in practice.

7. The argument presented that extensions are available if supported by an assessment is accordingly extinguished by the reality that rarely if ever are assessments actually delivered (never mind the highly unsatisfactory method adopted in any event (see below)). Neither does it address the reality that assessments undertaken at the age of 16 without any obligation to do one again leaves open the injustice caused to someone who would otherwise be assessed as a late developer, or a person who later discovers they can do things that because of unmet need in the past, they never thought that they could have done. It is frankly immoral to refuse to seek affording such people a chance.
8. The argument that the Minister is unconvinced to change the policy when she has available to her the same facts as I is deeply disappointing.
9. The argument that there is no disruption to programmes of study beginning from the next academic year as justification for not being persuaded that there is a need to increase the statutory age of entitlement misses the point entirely. Those aged 25 this year, who may have only discovered within what would have otherwise been their final year, a skill previously masked but never permitted to flourish and who may have entered a specialist college belatedly for perhaps a number of good reasons will face exclusion. They may have only had this year within which to derive any benefit – yet this year is polluted by the dilution of opportunities created by Covid19 as described above. That is no justification for ignoring the needs of the population who are being impacted now.

B. **The Political Argument**

Parents and lawyers who may help them can only work with the tools that Government may provide by passing laws. I truly believe that when considering the guidance and policy documents in detail can a reader properly understand the many hurdles that must be overcome before a disabled learner can access proper support in Wales.

To assess the likelihood of real benefits around the corner we must look at the present stance of our decision makers. Scrutiny of this guidance and policy provides an insight into the thinking and priorities of those who are entrusted to do so. It is only after considering this in detail that we are able to see hope held by so many evaporating and replaced by pessimism. I have set out in appendix A a more detailed appraisal of the guidance document primarily to highlight further obstacles it creates for disabled learners in Wales. Please also see Appendix B for a few real life examples. Please seize this moment to provide hope to so many who may have already too many hurdles in their lives.

(3) The Legal Argument

The purpose of the Equality Act 2010 was to break down barriers by requiring public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services. The UK Government advocated that the "*aim is for public bodies to consider the needs of all individuals in their day to day work, in developing policy, in delivering services, and in relation to their own employees*".
Integral to good policy making and in "*having due regard*", the Welsh Government is expected to listen to the people affected by its decisions and policies and to listen to and understand their views as part of the decision making.

The Additional Learning Needs and Tribunal Wales Act will change things as the idea is to improve learning opportunities for all albeit the extent by which this will be achieved is yet undetermined. The most vulnerable in Wales still wait for this change but this latest letter refusing to accept an urgent need for change in light of Covid19 is deeply disappointing. Change is needed now as the existing guidance documents are being applied now by officers who seek to use them to inform their decisions in regard to real people who are often in desperate situations.

I intend to show within this response not only why this policy and guidance documents are generally cruel to disabled people but also why failing to embrace the need for change now may in fact be unlawful. I of course appreciate that the Court of Appeal considered the guidance in the context of the particular facts in the case of R (DJ) -v- Welsh Ministers' [2018] EWHC 2735. The court was considering the longstanding argument that a public body must never surrender or ignore their powers and duties nor fetter its discretion by over committing itself to a particular course or approach. The Court was dealing with the well-known public law principles which govern decision making when considering whether the policy should be declared inconsistent with the Learning and Skills Act 2000. The court merely considered two matters. First, whether the application of an exceptional circumstances test amounted to evidence of an unlawful fetter of discretion and second, whether on the facts of the particular case the decision should be quashed due to the policy being rigidly and inflexibly applied. The case was not argued in terms of the truly unique circumstances that apply to us all, and neither was the case argued in terms of the Equality Act 2010 or the Human Rights Act 1998.

The Equality Act provides
At section 1 -

1 Public sector duty regarding socio-economic inequalities

(1)An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

*(2)In deciding how to fulfil a duty to which it is subject under subsection (1), an authority must take into account any guidance issued **[F1**in accordance with subsection (2A)**]**. ……..*

***[F3**(aa)in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers;**]** …..*

*(b)in any other case, guidance issued by a Minister of the Crown.**]***

***[F4**(3)The authorities to which this section applies are—*

(a)a Minister of the Crown;

(

At section 149 –

149Public sector equality duty

(1)A public authority must, in the exercise of its functions, have due regard to the need to—

(a)eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b)advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c)foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2)…..

(3)Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a)remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b)take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c)encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4)The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5)Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a)tackle prejudice, and

(b)promote understanding.

(6)Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7)The relevant protected characteristics are—

- *age;*
- *disability;*
- *gender reassignment;*

- *pregnancy and maternity;*
- *race;*
- *religion or belief;*
- *sex;*
- *sexual orientation.*

(8)A reference to conduct that is prohibited by or under this Act includes a reference to—
(a)a breach of an equality clause or rule;
(b)a breach of a non-discrimination rule.
(9)Schedule 18 (exceptions) has effect.

A sufficient summary of the requirements of section 149 for present purposes is that set out in R (Bracking) v Secretary of State for Work and Pensions [2013] EWCA Civ 1345 [2014] Eq. L.R. 60 at [25]:

> "(1) As stated by Arden LJ in R (Elias) v Secretary of State for Defence [2006] 1 WLR 3213; [2006] EWCA Civ 1293 at [274], equality duties are an integral and important part of the mechanisms for ensuring the fulfilment of the aims of anti-discrimination legislation.
>
> (2) An important evidential element in the demonstration of the discharge of the duty is the recording of the steps taken by the decision maker in seeking to meet the statutory requirements: R (BAPIO Action Ltd) v Secretary of State for the Home Department [2007] EWHC 199 (QB) (Stanley Burnton J (as he then was)).
>
> (3) The relevant duty is upon the Minister or other decision maker personally. What matters is what he or she took into account and what he or she knew. Thus, the Minister or decision maker cannot be taken to know what his or her officials know or what may have been in the minds of officials in proffering their advice: R (National Association of Health Stores) v Department of Health [2005] EWCA Civ 154 at [26 – 27] per Sedley LJ.
>
> (4) A Minister must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before the adoption of a proposed policy and not merely as a "rear guard action", following a concluded decision: per Moses LJ, sitting as a Judge of the Administrative Court, in Kaur & Shah v LB Ealing [2008] EWHC 2062 (Admin) at [23 – 24].
>
> (5) These and other points were reviewed by Aikens LJ, giving the judgment of the Divisional Court, in R (Brown) v Secretary of State for Work and Pensions [2008] EWHC 3158 (Admin), as follows:
>
> > i) The public authority decision maker must be aware of the duty to have "due regard" to the relevant matters;
> >
> > ii) The duty must be fulfilled before and at the time when a particular policy is being considered;
> >
> > iii) The duty must be "exercised in substance, with rigour, and with an open mind". It is not a question of "ticking boxes"; while there is no duty to make

express reference to the regard paid to the relevant duty, reference to it and to the relevant criteria reduces the scope for argument;

iv) The duty is non-delegable; and

v) Is a continuing one.

vi) It is good practice for a decision maker to keep records demonstrating consideration of the duty.

(6) "General regard to issues of equality is not the same as having specific regard, by way of conscious approach to the statutory criteria." (per Davis J (as he then was) in R (Meany) v Harlow DC [2009] EWHC 559 (Admin) at [84], approved in this court in R (Bailey) v Brent LBC [2011] EWCA Civ 1586 at [74–75].)

(7) Officials reporting to or advising Ministers/other public authority decision makers, on matters material to the discharge of the duty, must not merely tell the Minister/decision maker what he/she wants to hear but they have to be "rigorous in both enquiring and reporting to them": R (Domb) v Hammersmith & Fulham LBC [2009] EWCA Civ 941 at [79] per Sedley LJ.

(8) Finally, and with respect, it is I think, helpful to recall passages from the judgment of my Lord, Elias LJ, in R (Hurley & Moore) v Secretary of State for Business, Innovation and Skills [2012] EWHC 201 (Admin) (Divisional Court) as follows:

(i) At paragraphs [77–78]

"[77] Contrary to a submission advanced by Ms Mountfield, I do not accept that this means that it is for the court to determine whether appropriate weight has been given to the duty. Provided the court is satisfied that there has been a rigorous consideration of the duty, so that there is a proper appreciation of the potential impact of the decision on equality objectives and the desirability of promoting them, then as Dyson LJ in Baker (para [34]) made clear, it is for the decision maker to decide how much weight should be given to the various factors informing the decision.

[78] The concept of 'due regard' requires the court to ensure that there has been a proper and conscientious focus on the statutory criteria, but if that is done, the court cannot interfere with the decision simply because it would have given greater weight to the equality implications of the decision than did the decision maker. In short, the decision maker must be clear precisely what the equality implications are when he puts them in the balance, and he must recognise the desirability of achieving them, but ultimately it is for him to decide what weight they should be given in the light of all relevant factors. If Ms Mountfield's submissions on this point were correct, it would allow unelected judges to review on substantive merits grounds almost all aspects of public decision making."

(ii) At paragraphs [89–90]

> "[89] It is also alleged that the PSED in this case involves a duty of inquiry. The submission is that the combination of the principles in Secretary of State for Education and Science v Tameside Metropolitan Borough Council [1977] AC 1014 and the duty of due regard under the statute requires public authorities to be properly informed before taking a decision. If the relevant material is not available, there will be a duty to acquire it and this will frequently mean than some further consultation with appropriate groups is required. Ms Mountfield referred to the following passage from the judgment of Aikens LJ in Brown (para [85]):
>
> '....the public authority concerned will, in our view, have to have due regard to the need to take steps to gather relevant information in order that it can properly take steps to take into account disabled persons' disabilities in the context of the particular function under consideration.'
> [90] I respectfully agree...."

Article 8 of the European Convention incorporated into UK law by the Human Rights Act 1998 provides

> **Right to respect for private and family life**
>
> *1Everyone has the right to respect for his private and family life, his home and his correspondence.*
> *2There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

<u>Points to consider about the Equality Act</u>

1. Education for young people with disabilities is one of the most major ways to tackle economic and social disadvantage.
2. It is irrational to promulgate guidance and policy without input from bodies with specialist knowledge of child welfare and disability. Has the Minister consulted disabled groups about the impact of Covid19? I would be interested to see the responses she might have received.
3. People with disability in Wales rarely, if ever, secure an assessment from experts such as educational psychologists as practice appears to be against this. Thus the likely benefits of specialist provision is rarely, if ever, properly appraised and neither is the likely full psychological and educational impact of denying specialist help properly appraised or understood.
4. Unlike in England and other parts of the UK, people with disabilities who may have a need for specialist support post school are assessed in a particular way and involve a prescribed process of assessment by a range of experts entrusted to report on "need" without regard to a course duration or time limits. The decisions, if challenged, are scrutinised through a legal process that is designed to provide proportionate checks and balances. No such checks and balances apply here in Wales. Decisions are made by the very body that is required to fund and thus have arguably a financial vested interest in the outcome. To put it succinctly, the very fact that time limits are referred to in the document demonstrates the constraints applied in practice that should never exist and

which are unrecognised by Equality legislation. In essence, there is no justification, when tasked with eliminating inequality to erect obstacles in the form of time limits.

5. Proper compliance with the public law equality duty begs the question why anyone should advocate for an exceptional circumstance test let alone a very exceptional circumstance test which appears from the policy at para 92.
6. Restricting the provision for disabled persons to two years is fundamentally discriminatory in itself when the same limitation does not apply to those without disabilities. Indeed applying criteria to determine what should be the duration of study afforded to the most disabled learners based on the expectation of what a mainstream population will receive is discriminatory in itself. A mainstream population may need to take a resit year. A disabled learner does not get the chance.

Points to consider under the Human Rights Act

1. There is a clear and consistent line of Strasbourg jurisprudence to the effect that, although Article 8 contains no explicit procedural requirements, the decision-making process which leads to measures of interference with an individual's right to private life must be fair and such as to afford due respect to the interests safeguarded by Article 8. The purpose of implying a procedural obligation is to ensure "*effective*" respect for the right. Thus in *Tysiac v Poland* (2007) 45 EHRR 42, the ECtHR said at §115 (emphasis added):

   "Finally, the Court reiterates that in the assessment of the present case it should be borne in mind that the Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective. Whilst Art.8 contains no explicit procedural requirements, it is important for the effective enjoyment of the rights guaranteed by this provision that the relevant decision-making process is fair and such as to afford due respect to the interests safeguarded by it. What has to be determined is whether, having regard to the particular circumstances of the case and notably the nature of the decisions to be taken, an individual has been involved in the decision-making process, seen as a whole, to a degree sufficient to provide her or him with the requisite protection of their interests."
2. The current guidance appears to hide behind a clause that it does not have to consider all of the particular circumstances or the needs, wishes and feelings of the disabled learner let alone a proper consideration of the particular circumstances that they find themselves in. An assessment is rarely if ever commissioned in practice after a persons 16th birthday let alone as assessment that advocates usage of expertise from people with specialist knowledge in the field.

Conclusion

The Decision to refuse to make an emergency change to the current guidance in light of the pandemic, when that guidance does little to promote confidence in it being properly Equality Act compliant in the first place is deeply worrying. It offers insight into thinking which appears to disregard the impact that this covid19 pandemic is actually having on this group of some of the most vulnerable people in society.

The current trend appears to advocate, and indeed promote, the fact that the state should not be bound by the wishes and feelings of a family who would often be in the unique position to be best informed as to the needs of a young people and the impact that this is having on a particular disabled person.

The numbers of updated assessments in Wales beyond the 16th birthday merely reiterates this and is deeply worrying never mind the likelihood of future assessments not being delivered to those who are in need this year.

The application of what is said to be an exceptional circumstance test is merely to impose another hurdle for disabled people when the state should be doing all that is possible to eliminate prejudice and promote equality of opportunity. The very fact that only about 0.003% of the population of Wales are in actual need for this level of support should be considered exceptional enough. The fact that so few are granted either a three year period on entry, or an extension of their two year course of study or an additional programme of study is frankly shameful and representative of a Government content to focus on finance rather than need. This should not influence the Minister to reject the request but to promote the request.

I am left with an overwhelming urge to ask- Why do these people burdened by the most exceptional disabilities, still have to prove an exceptional circumstance.? Is not their disability exceptional enough? Why should exceptional people be so shamelessly ignored by the unexceptional ordinary world? Doing that which the general law requires at its most basic which is thus the least that the law expects is hardly a triumph to be proud of. For injustice, social and economic inequality to thrive, good politicians need only do nothing.

Yours sincerely

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