Equality in Colleges in Scotland

An analysis of the qualitative data of disabled staff experiences

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Full report authored by Advance HE (formerly the Equality Challenge Unit)

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1. Executive Summary

1.1 Background to the research

In 2018, the Equality Challenge Unit (ECU) conducted the first Scotland-wide research of college staff on their experiences working in the sector analysed by protected characteristics. The research report Equality in colleges in Scotland: results from the 2017 staff survey and focus groups highlighted disabled staff in particular perceived poorer experiences across aspects of employment than non-disabled staff.

As a result of these notable findings, further analysis of the data was conducted.

1.1.1 Quantitative results

The following quantitative results are a summary of the results related to disability from the full report published by ECU (now Advance HE) in 2017. The total sample size consisted of 1,927 members of staff, of which 471 disclosed as disabled.

+ Disabled staff experienced greater levels of inequality across all aspects of working life and had the highest proportion of staff who did not feel treated fairly in the workplace (22.5%).

+ Disabled staff tended to rate the support they received from management particularly low, along with lesbian, gay and bisexual (LGB) staff and staff in the over 60 age group.

+ Disability, age and sexual orientation were the protected characteristics staff felt least confident in disclosing to their college.

+ The level of information about colleges' promotion processes and criteria was generally poor among all staff, and varied significantly by gender, disability and age: disabled staff reported being significantly less informed about these processes than non-disabled staff.

+ Disabled staff were significantly less confident in disclosing equality information on all protected characteristics than non-disabled staff.

1.1.2 Qualitative findings

The following qualitative results are based on further analysis conducted in 2019, using software package Atlas.ti to uncover the experiences of disabled staff.

+ Ringing true with the quantitative data, disabled staff expressed feeling nervous about disclosing equality information (including information about their impairment) as, based on their experience, there was a lack of follow-up support and reasonable adjustments being made.

+ Respondents also touched upon restrictive policies within colleges, and how strict flexible working and/or absence policies negatively impacted disabled staff. Disabled staff also mentioned the lack of promotion opportunities visible to them, as promoted posts seemed to be filled more often by non-disabled staff.

+ The merger of Scottish colleges has inevitably created accessibility issues for disabled staff members (namely distance between campuses and the need to travel to and from), and it has been reported that some of the new buildings lacked reasonable adjustments.

+ Mental health is an issue increasingly in the spotlight for colleges, yet many respondents mentioned that cases surrounding this were extremely poorly handled. Unless staff have a positive relationship with their line manager, they reported experiences of caring for staff with mental health issues as negative and, in some cases, disturbing.

2. Introduction

2.1 Context for Staff Equality in Colleges project

The 'Supporting workforce diversity: progressing staff equality in colleges' project was managed by ECU (now Advance HE) as part of a three-year programme funded by the Scottish Funding Council (SFC) to support the college sector in advancing staff and student equality.

The report published in May 2018 presented findings from ECU's first national survey and focus groups that investigated staff perceptions and experiences of equality at colleges in Scotland. The research was conducted to inform ECU's work on improving staff diversity, aid colleges in creating a more inclusive and diverse workplace, and support them in meeting their equality responsibilities.

2.2 2019 detailed reports

The national survey will be repeated for a second time in February 2020, however, prior to looking at how the experiences and perceptions of college staff has changed over time, the 2017 data will be scrutinised further. Three areas had responses that stood out and these will be explored in a series of short reports, including:

(i)   Disabled staff experiences
(ii)   The ageing staff population
(iii)   Bullying and harassment

The following report will focus on disabled staff experiences, with an emphasis on qualitative feedback.

3. Methodology

3.1 The survey

An online questionnaire was developed in consultation with an advisory group comprised of senior staff in Human Resources and Equality and Diversity, representatives from UNISON, Educational Institute of Scotland (EIS), College Development Network and the SFC. It was distributed to all 26 colleges in Scotland, 25 of which submitted responses. Equality and personal data were collected in two monitoring sections of the questionnaire.

3.1.1 Survey respondents

A total of 2,023 members of staff completed the online questionnaire. After removing 'empty' and 'mostly empty' cases, the final sample consisted of 1,927 members of staff which represents 13.3% of the staff population in 2017. Of the final sample, 471 disclosed as disabled, representing 24% of the respondents.

Those who disclosed as disabled are highlighted as such within the report.

3.2 Focus groups

In May 2017, ECU (now Advance HE) conducted six focus groups with 26 staff members working at three colleges, which were selected on the basis of their geographical distribution.

3.2.1 Focus group respondents

Across the six groups, eight people disclosed as disabled. The focus groups were also categorised into three age groups: (i) under 29 (three participants), (ii) 30-59 (18 participants), and (iii) over 60 (five participants). The

focus groups were organised by the particular protected characteristics that had yielded most contrasting survey results, namely staff who identified as one of the following:

+ Female

+ Male

+ Under the age of 29

+ Over the age of 50

+ Black and minority ethnic (BME)

+ Disabled

3.3 Presentation of results

The following analyses are based on the sample of disabled staff who completed the online survey, compared with staff who did not disclose a disability, and those who participated in the focus groups. Within each section of the questionnaire, respondents had the opportunity to expand upon the context of that section in a free text response. The themes that emerged from these open-ended questions through inductive qualitative analysis are presented in each corresponding section to provide additional insight into the mechanisms underlying respondents' perceptions and experiences.

The report also presents findings from the thematic analysis of focus group transcripts, again organised by recurrent themes that emerged within disabled staff experiences.

Labelling of direct quotes from the survey are limited to gender and disclosure of impairment only. However, the small number of participants within the focus groups means that labelling of direct quotes is limited to one protected characteristic only.

3.4 Terminology

Throughout this report the language used aims to reflect the social model of disability. We therefore use "disabled staff" and "staff with an impairment". Inclusion Scotland states the social model "says disability is caused by barriers that arise because society is not designed to accommodate people who have impairments. It is these barriers that disable people who have impairments." Quotes from staff are recorded verbatim.

4. Legal and policy landscape

Recorded numbers of disabled staff in colleges is low, at 5.2% in 2016/17. This is compared to the 11.7% in the public sector overall, and with an estimate of 20% in the working age population in Scotland.

Recent policy and legislation have aimed to enable, encourage and increase the recruitment, development and retention of disabled people.

4.1 Disability Employment Action Plan

The Scottish Government has recently published its Disability Employment Action Plan outlining what it intends to do to at least halve the disability employment gap (DEG) in Scotland by 2038. This is an ambitious plan that aims to reduce the DEG from 35.8 percentage points (2017) to 18 percentage points or less within 19 years through improved recruitment, retention, and employer and employee support. The Government has consulted on setting targets for public sector employers in Increasing the Employment of Disabled People in the Public Sector.

4.2 Equality Act 2010

The Equality Act 2010 and its subsequent regulations place responsibilities on colleges as employers and public authorities.

4.2.1 Responsibilities as an employer

+ Non-discrimination

The Equality Act protects disabled people in employment from discrimination by an employer.

– Direct discrimination

  o A disabled person cannot be treated less favourably than a non-disabled person because of being disabled.

  o It also protects against unfavourable treatment arising in consequence of disability, unless the treatment can be shown to be a proportionate means of achieving a legitimate aim.

– Indirect discrimination

  o A disabled person is indirectly discriminated against where a provision, criterion or practice puts them at a disadvantage compared to a non-disabled person and it cannot be shown to be a proportionate means of achieving a legitimate aim.

– Harassment

  o A disabled person cannot be treated in a way that violates their dignity, or creates a hostile, degrading, humiliating or offensive environment.

– Victimisation

  o Victimisation occurs if a disabled person is treated unfairly after taking action under the Equality Act, or supporting someone to do so.

+ Provision of reasonable adjustments

Employers are required to provide reasonable adjustments for disabled staff if:

– a provision, criterion or practice puts the disabled person at a substantial disadvantage compared to a non-disabled staff member.

– a physical feature puts a disabled person at a substantial disadvantage compared to a non-disabled staff member.

– the provision of an auxiliary aid would remove a substantial disadvantage compared to a non-disabled staff member.

+ Positive action

Alongside responsibilities to ensure that disabled people are not discriminated against and are provided with the necessary reasonable adjustments, the Equality Act considers positive action in relation to recruitment and promotion of staff. S159 states that if it can reasonably be shown that people who share a protected characteristic experience, a disadvantage connected to that characteristic, or participation in an activity by persons who share a protected characteristic is disproportionately low, then positive action initiatives can be put in place. The aim of these initiatives must be to enable or encourage people who share a protected characteristic to overcome or minimise disadvantage.

+ Favourable treatment

Generally, the Equality Act prohibits treating a person more or less favourably on the grounds of their protected characteristic. S13 provides an exemption, stating that treating a disabled person more favourably than a non-disabled person is not discrimination against the non-disabled person.

4.2.2   Responsibilities as a public authority:

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 requires colleges to:

- report on how it is mainstreaming equality in the exercise of its functions.
- set equality outcomes that will enable the college to better perform the equality duty.
- gather and publish staff equality data across all protected characteristics in relation to recruitment, development and retention to report on the progress it has made to mainstream the equality duty.
- produce an equal pay statement specifying its policy on equal pay and rates of occupational segregation among its employees between: men and women; disabled and non-disabled people; and ethnic groups.

5.   Qualitative findings

5.1 Experiences of disabled staff

The qualitative experiences of disabled and non-disabled staff were varied. The following survey respondent was able to look back at a negative experience at her previous college when dealing with her impairment and, by way of comparison, felt more positive about her current place of work.

> *"I consider myself lucky to now work here as I left my previous work due to consistent failure to meet reasonable adjustments. I am making a steady recovery and this college has helped me to deal with my disability and still hold a job down. I am very grateful to them."*

> Female respondent who disclosed as disabled

5.1.1   Non-disclosure

However, the following respondents touch upon the reasons for non-disclosure of impairment (both physical and mental), and why negative experiences may have encouraged this behaviour. There appears to be a lack of confidence in the overall system and staff worry that, once disclosed, there will be little follow-up support.

> *"We've had a person who used to work for us who had mental health problems. They didn't disclose it and then they started work and it was… they maybe only worked a four-day week or they couldn't start work on a Monday because it was a Monday, and lots of things like that. So if that was declared at the beginning, then there's no way that they would have been offered probably a job to do with that. And that's what's wrong with the system, but that's just why people feel they have to hide things, don't they?"*

> Male staff member

The following respondent, whilst not disabled themselves, appreciated why disabled staff may not wish to disclose, for fear of not being listened to or treated with respect.

> *"I don't believe we're an ageist organisation but I'm not sure if all staff with a disability would feel they are listened to & treated fairly - I think there's more a culture of 'just putting up with it' & 'not making a fuss'."*

> Female respondent who has not disclosed as disabled

One focus group respondent touched upon the intersection of two aspects of identity (race and disability) and how a case surrounding this was 'poorly handled'. The quote below further highlights the adversity staff can face if they choose to disclose an impairment.

> *"We had one very long ongoing case which had a couple of equality elements in, race and disability, and that was incredibly poorly handled. There was absolutely no account taken of cultural issues and cultural differences, and when we raised it and said, "You know, you need to take account of the fact that this is coming from somebody with a different cultural background, it was like, "Tough, don't want to know." It was a very difficult case, could have been resolved probably within the first few months, and dragged on for two and a bit years."*

> Female staff member

5.2 Limitations in college policies

The following respondents highlighted the limitations disabled staff experience within their role due to restrictive policies that impacted on reasonable adjustments being made. It was also acknowledged by the survey respondent below that Equality Impact Assessments were not necessarily being carried out on policies, which could in turn be disadvantaging disabled staff – and especially those intersecting with other protected characteristics.

> *"Disabled staff have to fight to get reasonable adjustments made. HR policies are made on the hoof without regard to whether they comply with equality and human rights duties. Operational decisions are made without carrying out the necessary equality impact studies."*

> Male respondent who has not disclosed as disabled

5.2.1 Flexible working / part-time working

A couple of survey respondents mentioned that the option between part-time or full-time work is often strictly adhered to, and that a flexible working policy is not considered as an alternative. Options such as working from home or flexible/compressed working hours could be a solution for disabled staff not wanting to fully reduce their hours to part-time, but their experiences suggested this is not an option regularly taken into account.

> *"In regard to disability, I struggle with the amount of contact hours and the options are full-time or part-time when all I need to be considered for is maybe one less class a week and this would allow me to do my job much more efficiently. This would also prevent the imbalance of my home, work life. I want to work but suffered a stroke and am aware that I am slower than others to pick up new things, to prepare and to mark and already spend a tremendous amount of personal hours bridging the gap and this small life line would really help."*

> Female respondent who disclosed as disabled

> *"Flexible working and working from home - a selected few and not offered as a solution to staff with disabilities - some staff have fought and argued for solutions to assist their disability / care requirements / home life issues."*

> Male respondent who disclosed as disabled

5.2.2 Promotion opportunities

The following survey respondents acknowledged the lack of promotion opportunities available for disabled staff. On the whole, respondents recognised that promoted roles seem to be more often occupied by staff who have not disclosed a disability.

"Very few promoted opportunities for part-time workers. Very few promoted opportunities for disabled workers. Often disabled workers decide to work part-time to manage conditions so no real structure in place to offer part-time more responsible roles."

Female respondent who disclosed as disabled

"The vast majority of promoted roles are filled by white middle aged people without a disability."

Female respondent who disclosed as disabled

"There is not a lot of young persons or those with disabilities or varying gender identities in the Management or Senior Management roles, and it seems to be mostly men or women of 'natural' gender identity with no disabilities who are all mid-older age."

Male respondent who disclosed as disabled

Opportunities for promotion via increased training opportunities are also overlooked for disabled staff, acting as a further barrier to progression.

"Training opportunities - overlooked, preference given to others that do not have any disability. Progression - promotion tends to be for staff without disability."

Male respondent who disclosed as disabled

5.2.3   Absence policy

Some survey respondents mentioned that disability related sickness is often considered within the remit of any other sickness absence, which was seen as a disadvantage to disabled staff when reporting time off.

"Disability related sickness is counted under the same absence reporting procedure which causes disadvantages."

Female respondent who disclosed as disabled

"I have caring responsibilities and sometimes feel it is difficult to get the required time off I need to assist this role. I also have a disability and health condition which I am penalised and punished when I have to take time off, either for hospital appointments etc. or time off ill."

Female respondent who disclosed as disabled

"Equality is implied by the college policies however in reality I feel equality for all workers is often sought to the detriment of parents/carers and disabled workers. This is where the college cannot be deemed to offer preferential treatment to carers/disabled workers and therefore some of the policies end up actually discriminating against them - the absence policy for example."

Female respondent who disclosed as disabled

5.3   Physical environment and reasonable adjustments

The distance between campuses since the merger has noticeably reduced accessibility for physically disabled staff. It was also mentioned that new buildings have not been designed with suitable adjustments in mind.

"Require lecturing staff to walk 5 miles a day to classrooms, despite mobility problems. Not enough lifts for changing floors."

Female respondent who disclosed as disabled

> *"The college has had a disabled member of staff who since diagnosed at least 10 years ago and reasonable adjustments made has contributed effectively as a promoted member of staff. Now in the new building the doors are too heavy. She has been off. Occupational Health have advised reasonable adjustments. Trying to get action on this is futile."*

<div align="right">

Female respondent who has not disclosed as disabled

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With the above in mind, one focus group respondent mentioned that an earlier announcement of timetable changes (and thus awareness of which campuses you will be working on), would be a benefit to those with an impairment.

> *"Like a lot of things to do with inclusion, these kind of things would help everyone but it would particularly people with disabilities or health issues."*

<div align="right">

Female staff member

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A lack of reasonable adjustments such as revolving doors and wheelchair access hindered staff, and students, from utilising parts of the campus. One respondent noted that there was a significant delay to put reasonable adjustments in place, despite recommendations from Occupational Health.

> *"My office does not supply wheelchair access and therefore would not be fit for any staff in a wheelchair. The office is also open to students and so is inaccessible."*

<div align="right">

Female respondent who has not disclosed as disabled

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> *"I have a disability which is protected under the Equalities Act and a reasonable adjustment which was recommended by Occupational Health in November has not been put into place. Another reasonable adjustment which was recommended in February 2015 was not put into place until April 2016."*

<div align="right">

Female respondent who disclosed as disabled

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> *"No thought given to allocation of rooms, access to rooms based on a known disability."*

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Male respondent who disclosed as disabled

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5.4 Mental health

Mental health is an issue increasingly in the spotlight for colleges, but support for staff has been progressing at a slow speed. In particular, the merger of Scottish colleges, requiring that staff work across numerous campuses has negatively impacted on mental health.

> *"I think there are certainly a few equality issues to do with mental health. I think I've been expected to work in three, four possibly different work environments with different people. I think that's got a huge impact on people's support network which I think can then have a bigger impact on people that require a strong support network."*

<div align="right">

Female staff member

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5.4.1 Experiences of dealing with mental health

Staff who have dealt personally with mental health issues reported a wide range of experiences. Two respondents from the survey mentioned that their positive experience was the consequence of an understanding and helpful relationship with their manager.

> *"I have suffered from depression and stress, and my current line manager has been extremely supportive in helping me deal with these issues and improve my ability to strike a work/home life*

balance, but this has been a long road to develop these skills, a process which was not generally helped by previous managers, workload management etc."

Male respondent who has not disclosed as disabled

"I have personal experience of having to approach my manager about mental health issues. All of the occupational health report subjections were implicated and my manager was hugely supportive."

Female respondent who disclosed as disabled

However, the following survey respondents highlighted the negative experiences that, on the whole, more staff seemed to identify with; instances of colleges not being supportive of mental health issues. Whilst there are systems in place to help, these are not necessarily employed, or are simply ignored altogether.

"The college makes sure all the paperwork is in place but do not tend to always put it into practice, especially where mental illness is concerned."

Female respondent who has not disclosed as disabled

"I was interviewed for a promoted post at an FE college and when they found out that I had been off work the previous year with a mental health issue they withdrew the job offer."

Female respondent who disclosed as disabled

5.4.2   Non-disclosure of mental health

Among survey respondents, it was clear that the disclosure of mental health problems in colleges had become undesirable, due to a lack of understanding and an often unconformable situation once disclosed. Two respondents even mentioned that they feared disclosing a mental health condition could be used against them.

"Mental health issue; not acceptable to disclose an issue. Capability policy has the potential to be a tool to use against staff. Whether that perception is accurate or not is debatable. Comments from immediate boss indicate a lack of understanding of the real issues around stress and depression so wouldn't be comfortable disclosing."

Female respondent who disclosed as disabled

"Those with disabilities – particularly relating to mental health – risk having their conditions exacerbated by intrusive/unlawful off-record questioning and the blocking of access to support (medical, counselling etc.)."

Female respondent who disclosed as disabled

"I have had mental ill health for a number of years, I would not make that an issue as I know that it could be held against me by the management here."

Female respondent who disclosed as disabled

5.4.3   Returning to work after a period of absence for mental health

Those returning to work after a period of poor mental health explained that the support from both their immediate manager and the wider institution was severely lacking. This resulted in some situations where returning staff were forced into undesirable situations such as timetable changes, and even threats of being 'sacked'. It is therefore not surprising that this has led to an environment of non-disclosure surrounding mental health.

"When I came back after being off ill with severe depression, my immediate manager was very unsupportive and told me he wanted me gone, and if I even tried to take a day off he would have me sacked."

<div align="right">Female respondent who disclosed as disabled</div>

"I did have to take some time off work for depression in the past…When I returned to work I was 'punished' by being given changes to my usual 'type' of timetable. I was forced to teach subjects I had no experience of, with no proper explanation of why my 'subject specialisms' had been removed."

<div align="right">Male respondent who has not disclosed as disabled</div>

"Absolutely no support is offered to staff, including myself, who have had mental health problems resulting in absence. There is no 'care' offered by the organisation to staff."

<div align="right">Female respondent who disclosed as disabled</div>

5.5 Summary

Whilst some disabled staff highlighted positive experiences of their treatment (in particular when comparing with previous experiences at other colleges/workplaces), experience on the whole was regarded as negative. The follow-up care once staff had disclosed an impairment was limited, and in some cases even resulted in staff being threatened with termination of contract.

More broadly, the quotes shared in this insight raise a number of key themes, including the behaviour around non-disclosure of disability, and the emerging importance of treating and dealing with mental health issues among staff.

6. Recommendations

+ Mental health was cited many times by staff in the survey. They were less likely to disclose and to feel they were adequately supported when they did. Mental health and well-being are a national priority and recognised as a key element in a healthy workforce. Consider developing mental health and well-being policies for staff and review sickness absence policies to provide greater support to staff with mental health conditions.

+ Disclosure is often a challenge for colleges with many possible reasons for staff failing or declining to declare as disabled. The research suggests the merger process and subsequent structural changes as one possible reason. Previous Equality Challenge Unit research also highlighted that the wording of the questions asked and the processes used could be a factor. Review the processes around disclosure, such as; the processes used to request information and how this is worded, the questions asked of staff and how any changes made as a result of staff disclosure are communicated. ECU produced guidance on gathering staff equality data for colleges.

+ Distinguishing between absence due to general sickness and disability-related sickness absence is good practice as it helps to remove disadvantage experienced by disabled people. Review existing sickness absence policies to assess how well they might address broader types of leave such as well-being days or disability-related leave. Consider developing policies that specifically address these issues. Guidance on disability-related leave can be found at https://www.ecu.ac.uk/guidance-resources/employment-and-careers/terms-conditions/managing-disability-leave-disability-related-sickness/.

+ Meeting the ambitious expectations of the Disability Employment Action Plan will require a pro-active approach to disabled people's employment. Develop positive action approaches to the recruitment, development and retention of disabled staff, which are underpinned by evidence of need. Consider mapping the employment journey of a disabled staff member to identify key barriers and actions that can be taken to address these.

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