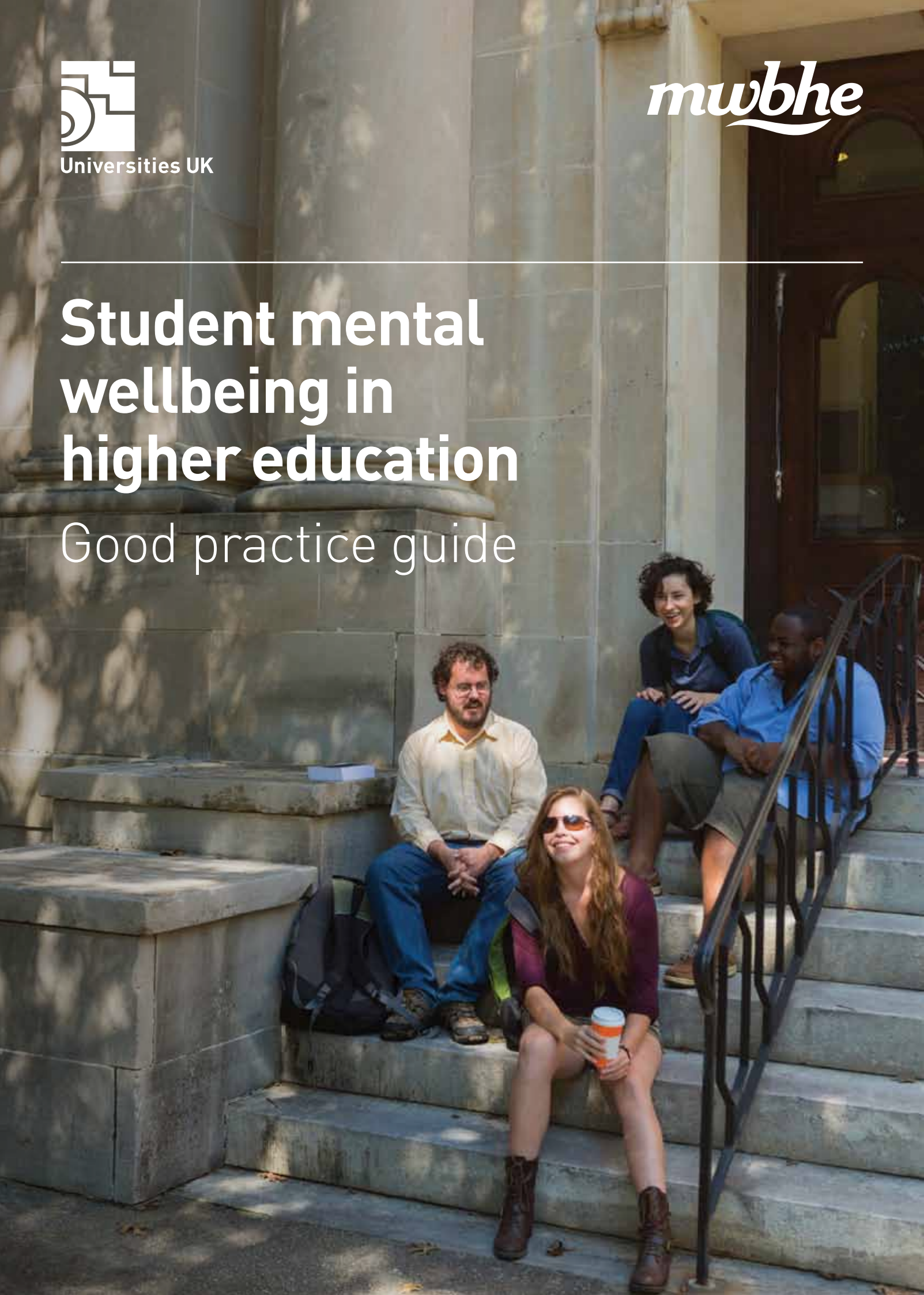
Universities UK

mwbhe

# Student mental wellbeing in higher education

## Good practice guide



# CONTENTS

Foreword . . . . . 3
Chair's introduction and overview . . . . . 5
Summary of recommendations . . . . . 6
Terminology . . . . . 8
1 International and national policy context . . . . . 11
2 Developments within higher education since 2000 . . . . . 16
3 Policy development . . . . . 21
4 Legal implications . . . . . 25
5 Support and guidance structures . . . . . 26
6 Raising awareness and training . . . . . 32
Annexe 1: A mental health framework . . . . . 38
Annexe 2: Legal implications . . . . . 41
Acknowledgements . . . . . 52
References . . . . . 53

# FOREWORD

Mental health difficulties can beset anyone at any time, although it is recognised that many of the transition points in life can be particularly challenging. For some students an unfamiliar higher education environment can be very stressful, particularly for those who already have an underlying illness. Higher education institutions therefore take student mental health seriously.

In the decade since the publication of *Guidelines on Student Mental Health Policies and Procedures for Higher Education*[1] there have been significant developments in approaches to teaching and supporting students who experience mental health difficulties; these have recognised the circumstances and factors that can contribute to, or negatively impact on, students' wellbeing and success. Within this context, changes have also occurred to the legal framework, particularly in respect of equality legislation with the Equality Act 2010. We have also seen the creation of new policies and procedural frameworks which can guide intervention and decision-making, and enable students to continue their studies in a way they would have previously been unable to do.

In view of this, Universities UK commissioned the Mental Wellbeing in Higher Education Working Group[2] to update the existing guidance, drawing on evidence and practice from within the higher education sector and reports from government and the health and voluntary sectors. This guidance has been written for senior leaders and managers, and aims to support institutions in their promotion of mental wellbeing and in the support they provide for students experiencing mental health difficulties.

The guidance highlights clear routes of support, ease of access and appropriate adjustments to the learning and living environment as positive enablers for students. The reluctance of some students to disclose their experiences remains a concern, although it is encouraging to see that the development of social inclusion and anti-stigma campaigns is beginning to address this; the work done by student bodies to support this is particularly commendable.

The guidance recognises and encourages the efforts of institutions in developing a comprehensive and effective range of internal support services for students with mental health difficulties, as well as developing collaborative relationships with external services, enabling referral to the NHS where necessary. This is an important point: university wellbeing services, however excellent, cannot replace the specialised care that the NHS provides for students with mental illnesses.

1 Published in 2000 by the Committee of Vice-Chancellors and Principals (CVCP), now Universities UK (UUK) and the Standing Conference of Principals (SCOP), now GuildHE.

2 The UUK/GuildHE Mental Wellbeing in Higher Education Group was founded in 2003 in response to growing interest in, and concern about, the mental health of students and staff in UK higher education. The group's aims are to: promote collaboration between the different sectors, agencies and professional groups with responsibility for mental well-being in higher education; be a reference point for government bodies, managers in the NHS and educational institutions and practitioners in respect of mental well-being in higher education; and to influence policy on issues related to mental wellbeing in higher education.

The challenge for the higher education sector is to ensure that universities offer effective and accessible support and advice for students at the same time as making it clear to students, staff and external agencies that institutions are academic, not therapeutic, communities. Universities must also demonstrate how they can play a positive role in the community and wider society in destigmatising mental health difficulties and providing support to underpin talented students with mental health challenges, leaving behind the deficit model of support of the past. The economic context and legal requirements also mean that the sector must work across communities to ensure students and staff are not overlooked in terms of statutory services.

Thanks are due to the Mental Wellbeing in Higher Education Working Group and to the individuals whose expertise has been essential in the development of this guidance.

**Nicola Dandridge**
Chief Executive, Universities UK

# CHAIR'S INTRODUCTION AND OVERVIEW

Universities have an important role to play in providing support for students with mental health difficulties. Over the last five years the proportion of disabled students who declared a mental health condition increased from 5.9% in 2007-08 to 9.6% in 2011-12 and from 0.4% to 0.8% of the entire student population[3].

This guidance updates the *Guidelines on Student Mental Health Policies and Procedures for Higher Education published in 2000* by taking account of the requirements of today's students, the increasing diversity of higher education providers and the different policies and practices that have emerged across the four nations of the United Kingdom.

Implicit within the guidance is an understanding that all higher education policies and procedures should serve natural justice, and thereby support and recognise students' rights. The guidance highlights the following areas for consideration in developing institutional policies and procedures:

- policy developments both nationally and internationally
- duty of care and legal considerations
- demand for institutional services versus external statutory services
- access to support and guidance services
- provision of training, development opportunities and information dissemination
- liaison between internal and external, voluntary and statutory agencies.

Each institution is different and the use of this guidance will depend on the nature of the student cohort and the particular challenges the institution may face. Our aim is to encourage, and to inform further developments within individual institutions. The student focus remains, but we also highlight the importance of promoting and supporting the mental wellbeing of staff. Institutions may find it helpful to set up a mental wellbeing working group to review and implement the recommendations set out in this guidance and to monitor and evaluate outcomes.

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Chair of the Mental Wellbeing in Higher Education Group,
Head of Counselling, Brunel University London

3 Equality Challenge Unit (2013), p.95, available at www.ecu.ac.uk/publications/equality-in-higher-education-statistical-report-2013/

# SUMMARY OF RECOMMENDATIONS

1. Senior management/executive teams are encouraged to embed the recommendations offered in this guidance into strategic planning and operational practices.
2. To facilitate integration and embedding of student mental wellbeing across the institution, this guidance should be circulated widely and internal task groups, with student representation, should be established to enable individual departments to review the implications for their own policies and procedures.
3. Institutions should consult and collaborate with students' unions and associations, and particularly with students with mental health difficulties when formulating and implementing student mental health-related policies and procedures and in identifying areas for improvement.
4. Institutions are encouraged to work across their communities to ensure students and staff are not overlooked in terms of statutory services. Clear links with the local voluntary and statutory agencies will also ensure that cross-referrals are made effectively.
5. It is strongly recommended that robust arrangements are put in place for any student with a history of mental health difficulties who is required to undertake a period of time studying off campus, including those studying or working abroad.
6. It is recommended that institutions have a wide range of policies available to cover the diverse needs of their students, in order to support their progress through their course as effectively as possible. When temporary withdrawal is considered the best option, these policies should enable students to return to their course with support in place. It is also recommended that fitness to study procedures contain appropriate provision to enable a student to request a return to study following a required withdrawal.
7. Institutions should consider the applicability and implications of their student mental health-related policies and procedures in respect of arrangements with collaborative and other partners such as further education colleges, placement providers, schools and employers. They should also consider opportunities for joint action with partner institutions and bodies.
8. To ensure that services are adequately resourced and working effectively the operation and capacity of services should be regularly assessed in relation to demand and effectiveness. Ongoing evaluative feedback should be sought regularly from service users and other students and staff.
9. Client feedback and service evidence should be collated and reported to the institution's governing body with a view to identifying future enhancements and priorities in promoting student mental wellbeing.

**10** In view of the crucial role of staff development, institutions are encouraged to give priority to incorporating relevant staff development sessions within their annual programme of activities.

**11** Consideration should be given to making training on mental health awareness and the protocols for reporting concerns available to all relevant staff. This includes academic and related departments, service and support areas, frontline and auxiliary staff, personal tutors, house/hall tutors and departmental disability officers. Such training could be cascaded to staff who have a front line role including cleaners, canteen and library staff, whether they are permanent, contract or agency staff.

# TERMINOLOGY

## Mental health, mental wellbeing and mental illness

Mental health encompasses the emotional resilience that enables us to enjoy life and to survive pain, disappointment and sadness, and an underlying belief in our own, and others' dignity and worth. It also allows us to engage productively in and contribute to society or our community.

A positive sense of mental wellbeing is for all of us to consider all of the time, as we might consider our physical, social and spiritual wellbeing. It is quite possible to have a good sense of mental wellbeing and yet be living with a diagnosed mental illness.

Mental health difficulties, often following major life events such as the end of a relationship, close bereavement or leaving home, can impact significantly on how students feel about themselves and how they engage with the transitions of student life. Symptoms may beset anyone at any time, giving rise to ongoing conditions that could interfere with the student's university experience and have implications for academic study.

Mental illness – arising from organic, genetic, psychological or behavioural factors (or combinations of these) that occur in an individual and are not understood or expected as part of normal development or culture – can be acute or chronic, and may fall within the definition of a 'disability' contained in the Equality Act 2010. It is important for institutions to bear in mind, however, that not all mental health difficulties will constitute a 'disability' under the Equality Act (see Annexe 2).

### Students' mental health

Students will have different needs and vary in their experience of mental health difficulties, including how they choose to think about their situation, and whether they wish to disclose their difficulties.

Mental illness or mental health difficulties can beset students at any point in their academic career. The underlying causes vary from person to person, and are certainly not all directly related to their higher education experiences. Nonetheless, particular aspects of the higher education experience and environment can cause stress for some students. Transition points in life can be particularly challenging: at the start of their courses, many students are likely to be adapting to significant changes in their lifestyle at a time when they are themselves adjusting to study.

Many new students may be required to:

- separate from family and existing friends
- move to a new area or country
- experience a range of different cultures
- communicate in a language in which they are not fully fluent
- meet unfamiliar modes of learning, teaching and assessment, and unfamiliar professional requirements
- manage changed financial circumstances, including living on greatly reduced incomes or taking out loans for the first time
- balance study with being a parent or carer, or part-time or full-time employment
- manage the transition from home to university life
- make the transition from home to university local health providers and support services.

There is a growing recognition that students with clinically recognised levels of mental health difficulties are studying in larger numbers. This should be viewed as a positive as they are a group that have often been excluded from higher education in the past.

It is also important to note that some level of stress does not necessarily have to have a negative impact and can be stimulating. Engaging in higher education can also make a positive contribution to mental wellbeing in that it:

- provides a structured and purposeful environment
- provides opportunities for academic and personal achievement leading to a fuller sense of identity and increased self-esteem
- offers the opportunity to learn to manage multiple demands and build confidence
- can reduce isolation and provide opportunities for new friendships
- provides opportunities for exercise, creativity and community involvement and contribution.

For all students participation in higher education offers challenges and opportunities. The task for institutions is to help students to capitalise on the positive mental health benefits of higher education while identifying and providing appropriate support to those who are more vulnerable to its pressures. Providing them with the support they need to fulfil their potential is not only in the interest of the institution, but also in the interest of society as a whole.

Many institutions are reviewing their current offering for students to ensure it is promoting self-agency, resilience and independence in an academic community and not based on a 'deficit' model where only students who reach crisis point are offered support.

## Staff wellbeing

Staff wellbeing is important both for its own sake and for the sake of students. The nature of much of the core business of higher education means that staff and student concerns are inter-related and inter-dependent. For example, many academic staff have both teaching and student advisory roles: 80% of the 96 institutions that participated in a mental wellbeing in Higher Education survey in 2008[4] reported that they had a personal tutorial system in place. If staff are to be effective in recognising, guiding and supporting students with complex difficulties or ill health they need to have the personal robustness and appropriate institutional guidance and support to help them to undertake their role (see chapter 5 on support and guidance structures).

In 2013, a study undertaken by researchers in the National Nursing Research Unit explored the links between patients' experiences of health care and staff experiences at work including staff motivation and wellbeing. One of the key messages of the study was that:

> *There is a relationship between staff wellbeing and various dimensions of(a) staff reported patient care performance and (b) patient-reported patient experience... [S]eeking systematically to enhance staff wellbeing is, therefore, not only important in its own right but can also improve the quality of patient experiences (p.18).*[5]

In supporting staff wellbeing there is also an increasing awareness that organisations benefit from moving from stress management of employees to 'resilience promotion', where the focus is on provision of skills to support staff in managing change and preventing it becoming stress[6].

4 The results of the survey are available on the website for the Working Group for the Promotion of Mental Wellbeing Group in Higher Education, www.mwbhe.com

5 Maben et al. 2012: available at www.nets.nihr.ac.uk/__data/assets/pdf_file/0007/85093/ES-08-1819-213.pdf

6 Cooper G. (2013): *Building Resilience for Success* (with Jill Flint-Taylor and Michael Pearn)

# 1: INTERNATIONAL AND NATIONAL POLICY CONTEXT

**This chapter outlines:**

- The international context
- Government mental health policy across the four nations of the UK
- UK-wide approaches to suicide prevention

## 1.1 International context

In 2005 the World Health Organisation's Mental Health Declaration for Europe[7] affirmed the vital importance of the promotion of mental wellbeing and the consideration of the needs of those experiencing mental health difficulties and mental ill health:

> Mental wellbeing is fundamental to the quality of life and productivity of individuals, families, communities and nations, enabling people to experience life as meaningful and to be creative and active citizens. We believe that the primary aim of mental health activity is to enhance people's wellbeing and functioning by focusing on their strengths and resources, reinforcing resilience and enhancing protective external factors (pp17-18).

In 2013 this was taken one step further with the adoption of the WHO's Mental Health Action Plan for 2013-2020 by the 66th World Health Assembly[8].

The objectives of the action plan are to:

- strengthen effective leadership and governance for mental health
- provide comprehensive, integrated and responsive mental health and social care services in community-based settings
- implement strategies for promotion and prevention in mental health
- strengthen information systems, evidence and research for mental health.

The plan sets a central role for provision of community-based care and a greater emphasis on human rights. It also introduces the notion of recovery, moving away from a pure medical model, and addresses income generation and education opportunities, housing and social services and other social determinants of mental health in order to ensure a comprehensive response.

The action plan also emphasises the empowerment of people with mental disabilities, the need to develop a strong civil society and the importance of promotion and prevention activities including those to prevent suicides. Progress will be measured through indicators and targets, which include:

7 WHO 2005, *Mental health; facing the challenges, building solutions* pp17-18 available at www.euro.who.int/en/health-topics/noncommunicable-diseases/mental-health/publications/2005/mental-health-facing-the-challenges,-building-solutions

8 WHO 2013, *The Mental Health Action Plan 2013-2020* is available at www.who.int/mental_health/publications/action_plan/en/

- a 20% increase in service coverage for severe mental disorders
- a 10% reduction of the suicide rate by the year 2020.

## 1.2 National context

In the UK, every year one in four of the population experience a mental health difficulty. It is reasonable to presume that this degree of prevalence may also be reflected in student and staff populations. The Equality Challenge Unit (ECU)[9] provides annual statistical reports on the numbers and proportions of students and staff who have declared a mental health condition. It is, however, very important to note that as these data only present the numbers of those who have declared their difficulties on admission or at the start of their employment they almost certainly significantly underestimate the true incidence within the HE sector (see also section 5.1).

ECU data for the academic year 2011-12[10] are given below in Tables 1 and 2.

**Table 1: Students who declared a mental health condition in 2011–12**

| | First degree undergraduate | | | Postgraduate research | | | Postgraduate taught | | |
|---|---|---|---|---|---|---|---|---|---|
| | No. | % a | % b | No. | % a | % b | No. | % a | % b |
| Mental health condition | 15,430 | 1.0 | 10.2 | 645 | 0.6 | 9.6 | 2,075 | 0.5 | 8.3 |

a. as a proportion of all students b. as a proportion of all disabled students

**Table 2: Staff who declared a mental health condition in 2011–12**

| | All staff | | | Professional and support staff | | | Academic staff | | |
|---|---|---|---|---|---|---|---|---|---|
| | No. | % a | % b | No. | % a | % b | No. | % a | % b |
| Mental health condition | 875 | 0.2 | 6.7 | 575 | 0.3 | 7.4 | 300 | 0.2 | 5.7 |

a. as a proportion of all staff b. as a proportion of all disabled staff

Within the UK, policy and practice varies across the four nations, and the approaches taken in each are under constant review. What follows here is a brief summary of some of the key developments and policy documents to date, including some of the different approaches that have been taken across the UK.

### England

An increased awareness of the importance of mental health and wellbeing in UK government thinking is evident in the 2011 publication, No Health without Mental Health. A Cross-Government Mental health Outcomes Strategy for People of All Ages[11].

9 These reports present an analysis of the gender, ethnicity, disability and age profiles of the higher education workforce (Part 1: staff) and full and part-time students (Part 2: students).

10 Equality Challenge Unit (2013), *Equality in higher education: Statistical report*, available at www.ecu.ac.uk/publications/equality-in-higher-education-statistical-report-2013/

11 HMG (2011), *No Health without Mental Health. A Cross-Government Mental health Outcomes Strategy for People of All Ages*, available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/213760/dh_123990.pdf

This sets out how the government, working with the community, aimed to improve mental health and wellbeing and promote mental wellbeing. Emphasis is placed on the design of services around the needs of individuals to facilitate appropriate and effective transition between services, removing any age-based, professional or organisational barriers. The 2012 implementation framework[12] gave guidance on how local organisations can support implementation of the strategy, measure progress and improve mental health outcomes in their area.

The Department of Health demonstrated its commitment to improving wellbeing in *Closing the Gap*[13], identifying, inter alia, mental health services, integrating mental and physical health care and improving quality of life for those with mental health difficulties as key areas for the focus of improvement.

Of particular relevance to the higher education sector is the 2014 Children and Families Act[14], which links health, education and social care for people up to the age of 25, through better joint commissioning of education, health and care services.

### Scotland

The Scottish government's mental health strategy, published in 2012[15], sets out a range of key commitments to ensure delivery of effective, quality care and treatment for people with a mental illness, their carers and families. The strategy brings together work to improve both mental health and mental health services.

A year later, in 2013, the Scottish government, together with Comic Relief, committed to invest £4.5 million in a three year anti-stigma programme of awareness raising to challenge the discrimination associated with mental ill-health[16]. The activities of the programme reflect a shift of emphasis from changing attitudes and improving knowledge at societal level to changing behaviour across all levels, particularly within communities.

The Warwick-Edinburgh Mental Wellbeing Scale[17] is a measure of the positive mental health of people over time and has been included in the annual Scottish Health Survey[18]. Results from these surveys provide a baseline for monitoring mental wellbeing trends over the coming years.

### Wales

In 2010 several key policy and legislative directives were published in Wales aimed at improving the mental health of the nation. The central strategy is the 10 year plan Together for Mental Health: A Strategy for Mental Health and Wellbeing in Wales[19]. This addresses the recovery and enablement of service users by addressing the factors that can affect mental health and wellbeing.

12 HMGa (2012), *No Health without Mental Health: implementation framework*, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216870/No-Health-Without-Mental-Health-Implementation-Framework-Report-accessible-version.pdf

13 DoH (2014), *Closing the Gap*, available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/281250/Closing_the_gap_V2_-_17_Feb_2014.pdf

14 HMG (2014) *Children and Families Act*, available at www.legislation.gov.uk/ukpga/2004/6/pdfs/ukpga_20140006_en.pdf

15 SG (2012) *The Scottish government's Mental Health Strategy*, available at www.scotland.gov.uk/Publications/2012/08/9714

16 Details at www.samh.org.uk/news-resources/latest/re-founded-see-me-national-programme-for-anti-stigma-and-discrimination

17 *Warwick-Edinburgh Mental Wellbeing Scale*, www.healthscotland.com/documents/1467.aspx

18 *Scottish Health Survey*, www.scotland.gov.uk/Topics/Statistics/Browse/Health/scottish-health-survey/Publications

19 WAG (2010), *Together for Mental Health: A Strategy for Mental Health and Wellbeing in Wales*, available at www.wales.gov.uk/topics/health/nhswales/healthservice/mental-health-services/strategy/?lang=en

In addition the Mental Health (Wales) Measure 2010[20] places legal duties on Health Boards and Local Authorities to improve support and access to services for people with mental ill health.

Further information and guidance is available from the *All Wales Mental Health Promotion Network* [21], one of the Welsh government's flagship initiatives to help improve the mental health of the population. It provides a focus for mental health promotion in Wales and aims to increase public and professional understanding of mental health and act as a conduit for the dissemination of promising practices in public mental health promotion.

### Northern Ireland

Mental illness is one of the major causes of ill health and disability in Northern Ireland, which has a significantly greater prevalence (one in five adults) than England. Mental ill health is even more prevalent in areas of deprivation. A strategic framework for public health, Making Life Better. A Whole System Framework for Public Health 2013-2023[22], was published in 2014. It is designed to provide direction for policies and actions to improve the health and wellbeing of people in Northern Ireland and to reduce inequalities in health. Emphasis is placed on the need to work collaboratively through both policy and practice in order to influence the wide range of factors that shape lives and choices. The framework is not just about actions and programmes at government level, but also provides direction for work at both regional and local levels with public agencies, including local government, local communities and others working in partnership.

The accompanying statistical report, Making Life Better – Key Indicators and Baselines[23] is the first in a series that will monitor the key indicators set out in the strategic framework. As 2014 is the initial year of the framework, the report focuses on introducing each of the indicators and presenting the baseline position.

The Warwick-Edinburgh Mental Wellbeing Scale has also been used in the annual Northern Ireland Health Survey[24] and in the Young Person's Behaviour and Attitudes Survey[25]. Results from the 2010/2011 and 2011/12 surveys will also provide a baseline for monitoring mental wellbeing trends over the coming years.

### Cross national approaches to suicide prevention

Suicide and suicide prevention are inevitably a particular concern across the whole of the UK. The 2014 Samaritans' Suicide Statistics Report[26] shows that suicide rates have stayed relatively stable in the UK over the last 20 years. There has been an overall decrease in the UK, but this has tailed off in recent years with a small rise in rates since 2010. The rate for males has increased from 16.9 per 100,000 in 2010 to 18.2 in 2012, while the rate for females has remained stable at 5.2 in 100,000.

20 *Mental Health (Wales) Measure 2010*, available at www.wales.gov.uk/topics/health/nhswales/healthservice/mental-health-services/measure/?lang=eng

21 *All Wales Mental Health Promotion Network*, available at www.publicmentalhealth.org/page.cfm?orgid=749&pid=30596

22 DHSSPS (2014a), *Making Life Better. A Whole System Framework for Public Health 2013-2023*, available at www.dhsspsni.gov.uk/mlb-strategic-framework-2013-2023.pdf

23 DHSSPS (2014b), *Making Life Better – Key Indicators and Baselines*, available at www.dhsspsni.gov.uk/hscims-mlb-2014.pdf

24 *Northern Ireland Health Survey*, available at www.csu.nisra.gov.uk/surveyNIHS.asp5.htm

25 *Young Person's Behaviour and Attitudes Survey*, available at www.csu.nisra.gov.uk/survey.asp14.htm

26 Showcroft (2014): *Samaritans' Suicide Statistics Report*, available at www.samaritans.org

Although the overall incidence of student suicide remains low, in England and Wales there was an increase in reported student suicides between 2007 and 2011.The number of suicides by male students in full-time higher education rose from 57 to 78, while female student suicides almost doubled from 18 to 34[27]. The extent to which this reflects more accurate reporting of student death over recent years is unclear. However it is important that the higher education sector monitors any changes in suicide rates in the future and compares these with national trends.

In 2012, the government demonstrated its commitment to suicide prevention with the publication of the cross-government strategy, Preventing Suicide in England[28]. This aimed to reduce the suicide rate and improve support for those at risk by drawing attention to the critical importance of mental health promotion, prevention and early intervention. This was followed in 2014 by Preventing Suicide in England: One Year On[29]. This report highlights the outcomes from research into effective suicide prevention and the actions that local services can take to reduce suicide.

The Scottish government's Suicide Prevention Strategy 2013-2016[30] was published in 2013. The aim was to continue the downward trend in suicides in Scotland and to contribute to the delivery of the National Outcome to enable people to live longer, healthier lives.

Between 1996 and 2006, around 300 people in Wales of all ages died each year as a result of suicide. As suicide is also one of the highest causes of death among young people, in 2009 the Welsh government launched a national plan to reduce suicide and self-harm. Talk to Me: the National Action Plan to Reduce Suicide and Self-Harm[31] presents a five year action plan aimed at raising awareness of suicide and self-harm and helping people understand that it is often preventable. Attention was drawn to the challenges and priorities and how organisations should work together to address these.

There were 289 deaths by suicide in Northern Ireland in 2011. During 2009/2011 there was an average annual suicide rate of 16.1 deaths per 100,000 population with significantly higher rates for men (25.1 deaths per 100,000), than for women (7.4 deaths per 100,000).

Protect Life – A Shared Vision: The Northern Ireland Suicide Prevention Strategy and Action Plan 2006-2013[32] was developed in response to strong representations made by families bereaved by suicide and the community, and concerns raised in relation to clusters of suicide, especially in socially-deprived areas where rates are significantly higher than in the general population. In 2012, the strategy was refreshed and extended to 2014 in The Northern Ireland Suicide Prevention Strategy Protect Life: a Shared Vision[33]. Further advice and guidance for the sector is provided through the Northern Ireland Association for Mental Health (Niamh)[34].

27 This information was obtained from the Office for National Statistics in response to a Freedom of Information request.

28 HMG (2012), *Preventing Suicide in England*, available at www.gov.uk/government/uploads/system/uploads/attachment_data/file/216928/Preventing-Suicide-in-England-A-cross-government-outcomes-strategy-to-save-lives.pdf

29 HMG (2014), *Preventing Suicide in England: One Year On* www.gov.uk/government/uploads/system/uploads/attachment_data/file/278119/Annual_Report_FINAL_revised.pdf, p7, number 10.

30 SG (2013), *Suicide Prevention Strategy 2013-2016*, available at www.scotland.gov.uk/About/Performance/scotPerforms/outcome/healthier

31 WAG (2009), *Talk to Me: the National Action Plan to Reduce Suicide and Self-Harm*, available at www.wales.gov.uk/docs/phhs/publications/talktome/091102talktomeen.pdf

32 DHSSPS (2006), *Protect Life - A Shared Vision: The Northern Ireland Suicide Prevention Strategy and Action Plan 2006-2013*, available at www.dhsspsni.gov.uk/phnisuicidepreventionstrategy_action_plan-3.pdf

33 DHSSPS (2012), *The Northern Ireland Suicide Prevention Strategy Protect Life: a Shared Vision*, available at www.dhsspsni.gov.uk/suicide-prevention

34 *Northern Ireland Association for Mental Health (Niamh)*: www.niamhwellbeing.org

# 2: DEVELOPMENTS WITHIN HIGHER EDUCATION SINCE 2000

**This chapter outlines:**

- Relevant publications and innovations to support students with mental health difficulties
- Organisations that provide support for mental health
- 'Healthy Universities', a holistic 'healthy settings' approach to promoting health and wellbeing
- Student-led initiatives to support mental wellbeing
- Emerging challenges for higher education institutions and their students

## 2.1 Guidance to support institutions in supporting students with mental health difficulties

In the last 15 years a series of influential publications have been published which illustrate the higher education sector's growing concern for student mental health and the steps that have been taken by both institutions and national bodies to address these, see Box 1.

**Box 1**

- Degrees of Disturbance, a report from the Heads of University Counselling Services[35]
- Guidelines on Student Mental Health Policies and Procedures for Higher Education[36]
- Good Practice Guide on Responding to Student Mental Health Issues: Duty of Care Responsibilities for Student Services in Higher Education[37]
- Reducing the Risk of Student Suicide[38]

The influence of these publications is evidenced in the growing awareness of mental health matters in higher education, not only in respect of the impact on students and staff, but also in the growth of academic interest in student wellbeing, including, for example, as a focus for doctoral research.

35 *Degrees of Disturbance (1999),* Rana et al, available at www.beautifulminds.info/hucsreport.html

36 UUK /SCOP (2000), *Guidelines on Student Mental Health Policies and Procedures for Higher Education*

37 AMOSSHE (2001), *Good Practice Guide on Responding to Student Mental Health Issues: Duty of Care Responsibilities for Student Services in Higher Education*

38 UUK/SCOP (2002), *Reducing the Risk of Suicide*

External bodies have also made an important contribution to sector awareness and practice:

- the Royal College of Psychiatrists, which established a student mental health working group in 2002 to produce a report on the Mental Health of Students in Higher Education. This report was updated in 2011[39]
- the charity Papyrus, which commissioned research on student suicide, the outcome of which was Responses and Prevention in Student Suicide[40]

## 2.2 Organisations promoting mental wellbeing

The profile of mental health and mental wellbeing, and the dissemination of effective practice in higher education has been advanced through conferences, seminars, research and publications organised and written by professional support staff in further and higher education and professional groups (see Box 2).

**Box 2**

- AMOSSHE, The Student Services Organisation
- British Association of Counselling and Psychotherapy Universities and Colleges Division
- Equality Challenge Unit
- Heads of University Counselling Services
- Higher Education Academy
- Mental Wellbeing in Higher Education Working Group
- National Association of Disability Practitioners
- National Union of Students
- Student Health Association
- University Mental Health Advisers Network

## 2.3 'Healthy universities'

Additionally, the last decade has seen an increased interest in a holistic 'healthy settings'[41] approach to promoting health and wellbeing. Pioneering work undertaken at the University of Central Lancashire (Dooris 2001) has stimulated developments and initiatives in other institutions across the sector. These have looked at both the many interrelated factors - social, academic, economic and environmental - that can affect mental health and at strategies to improve the mental wellbeing of all members of universities and colleges.

By February 2010 45 higher education institutions were members of the Healthy Universities Network[42]. This network provides training, information advice and guidance for institutions, advising on holistic approaches to the support and management of mental health difficulties.

39 RCPsych (2011), *Mental Health of Students in Higher Education*, available at www.rcpsych.ac.uk/files/pdfversion/cr166.pdf

40 Stanley et al.(2007), *Responses and Prevention in Student Suicide*, available at www.new.papyrus-uk.org/attachments/PSSsummary.pdf

41 'Healthy settings' are physical and social settings, such as schools, workplaces, hospitals and communities, which serve as supportive environments for health protection and health promotion activities.

42 Further details on 'healthy universities' are available at www.healthyuniversities.ac.uk/index.php?s=1

## 2.4 Student-led initiatives

A growth in the number and range of initiatives that are either student-led or developed with students reflects the increasing emphasis students and student bodies place on mental health and wellbeing, as well as recognising the increased demand for mental health support (see Box 3).

**Box 3**

Nightline[43] which offers peer support and information for students out of hours at many institutions across the UK

Students Against Depression[44], a web-based resource with student-contributed case studies, blogs and clinically validated self-help information

Student Minds[45], an organisation that carries out research and advocacy for students nationally and supports a network of student–led societies at universities across the UK

Mental Wealth UK, a non-profit organisation founded by students to promote positive wellbeing on campuses and beyond. It serves as a hub for campus 'mental wealth' initiatives that work in partnership with staff and wider stakeholders. In 2014, Mental Wealth UK merged with Student Minds.

The Alliance for Student-Led Wellbeing[46], an umbrella group for student-led organisations that aims to raise awareness, reduce the stigma of mental ill health and provide practical help and emotional support to university and college students

Individual institutions across the sector have also established local peer support initiatives for students experiencing mental health difficulties. Alongside such initiatives, peer awareness and discussion campaigns to destigmatise mental health difficulties are also on the rise. The National Union of Students (NUS) has taken an active role in facilitating support and the creation of anti-stigma activities and working with institutions in the development of their policies and practices.

The NUS has also worked closely with the Time to Change[47] campaign.This is an anti-stigma campaign run by the mental health charities Mind and Rethink Mental Illness to end the stigma and discrimination faced by people with mental health problems. Organisations are encouraged to make a pledge to show that they are taking action to reduce mental health discrimination and challenge mental health stigma and improve policy and practice.

The campaign started in 2007 and by July 2014, 200 organisations had made their pledge, including universities, students' unions, the Department of Health, the Department for Business Innovation and Skills and local authorities.

43 Nightline, www.nightline.ac.uk

44 Students Against Depression, www.studentsagainstdepression.org

45 Student Minds, www.studentminds.org.uk/student-minds-and-mental-wealth.html

46 The Alliance for Student-Led Wellbeing, www.alliancestudentwellbeing.weebly.com/

47 Time to change campaign, www.time-to-change.org.uk/

In Scotland, the NUS Scotland's Think Positive[48] project has also supported students' associations to work in partnership with their institutions to develop Student Mental Health Agreements with actions focused on reducing stigma and discrimination and promoting wellbeing. Many students' associations have worked with the See Me[49] campaign and mental health organisations in Scotland deliver these agreed partnership actions.

## 2.5 Emerging challenges for higher education institutions and their students

In an increasingly consumer-driven market, there is a growing emphasis on enhancing the 'whole' student experience. This means delivering not only high quality teaching and learning, but ensuring an excellent experience on all aspects of student life, including their living and social environment and ensuring that students are effectively supported to reach their goals and aspirations. Actions that are being taken to deliver a high quality student experience include improving staff to student ratios, strengthening academic and personal advisory systems and investing in better student facilities and support systems. Maintaining good levels of support can, however, be difficult in a challenging economic climate.

The impact of austerity measures on statutory services is also a concern to the sector. Financial and demographic pressures nationally and internationally have led governments, including the UK and other OECD countries, to review whether traditional models of public delivery service are sustainable[50]. The higher education sector faces the challenge of ensuring that student-facing services that aim to enable students to complete their academic studies are not confused with the treatment, therapy or on-going support that are the responsibility of the NHS and local government.

Those GP practices and NHS mental health trusts with a high proportion of students may find themselves significantly disadvantaged as funding for GP practices is based on the weighting of their patient populations[51]. The normal student age group does not generally attract the higher funding provided for groups such as infants and the elderly. In 2004, the government introduced the Minimum Practice Income Guarantee (MPIG) to make sure GP practices had a minimum income, regardless of the population they served. The MPIG is likely to be phased out over the next seven years, which may have a detrimental impact on student medical centres and GP practices with a large number of student patients. Furthermore, because undergraduate students often return home during the vacation, they may bring in less money for the practice than a patient who is a permanent resident in their catchment area.

A key challenge for student mental health care is the need for joined-up services. Students who live on or close to their campus are encouraged to join a local GP practice. Their previous notes will be transferred to their new practice although this can take some time; when the student returns home, their notes, treatment plans and, where appropriate, their emergency key worker, are inaccessible unless there is close collaboration between the home and university practices.

48 Think Positive, www.nus.org.uk/en/nus-scotland/student-mental-health/

49 'See Me' was launched in 2002, funded by the Scottish government. More information is available at www.seemescotland.org.uk/home/

50 See www.carnegieuktrust.org.uk/changing-minds/people---place/enabling-state

51 Caleb R 2014: http://www.theguardian.com/higher-education-network/blog/2014/may/27/students-mental-health-risk-cuts-nhs-services

Ensuring continuity of support can be particularly challenging for students who are required to spend part of their course on professional placements, working in industry or studying or working abroad. Services accessible to these students can be very different from those available at the home institution or through the local NHS or voluntary sectors. Good advance preparation is essential; in some cases it may be advisable to undertake a fit to study process (see section 3.2) or occupational health review to ensure that the student is well enough to cope with the change of environment without detriment to their health. It is important that students have effective ways (including for example the use of Skype) of contacting the home institution for help and advice should this become necessary.

**Recommendations**

1. Senior management/executive teams are encouraged to embed recommendations offered in this guidance into strategic planning and operational practices.
2. To facilitate integration and embedding of student mental wellbeing across the institution, this guidance should be circulated widely and internal task groups, with student representation, should be established to enable individual departments to review the implications for their own policies and procedures.
3. Institutions should consult and collaborate with students' unions and associations, and particularly with students with mental health difficulties when formulating and implementing student mental health-related policies and procedures and in identifying areas for improvement.
4. Institutions are encouraged to work across their communities to ensure students and staff are not overlooked in terms of statutory services. Clear links with the local voluntary and statutory agencies will also ensure that cross-referrals are made effectively.
5. It is strongly recommended that robust arrangements are put in place for any student with a history of mental health difficulties who is required to undertake a period of time studying off campus, including those studying or working abroad.

# 3: POLICY DEVELOPMENT

**This chapter sets out:**

- Key outcomes from sector-wide surveys on mental health policies and practice
- Frameworks for the development of policies and procedures including procedural frameworks to guide staged intervention and decision-making:
  - fitness to study
  - mitigating circumstances
  - fitness to sit
  - fitness to practise
  - crisis intervention
  - returning to study

## 3.1 Sector-wide surveys

The UUK/GuildHE Mental Wellbeing in Higher Education Group has undertaken sector-wide surveys of mental health policy and practice in 2003, 2008 and 2014.[52]

In 2003, 26% of higher education institutional respondents had a formal mental health policy in place; by 2008 the proportion had risen to 54%, with a further 29% reporting that they were in the process of developing one. These surveys showed that a number of institutions had:

- formed internal task groups to facilitate the development and implementation of mental health strategies
- established regular cross-department meetings to review the progress of their most vulnerable students
- developed staff training on helping students in emotional difficulty
- established links with local NHS providers

## 3.2 Policy development

In 2006, the UUK/GuildHE Mental Wellbeing in Higher Education Group published a framework for an institutional mental health policy[53]. The framework drew attention to a range of issues that institutions might address, and for which protocols, procedures or codes of practice could be developed. The list was not exhaustive and institutions were expected to identify other matters for consideration. Building on institutional practice the framework has been updated and is given in Annexe 1 of this document.

52 Survey results are available on the Mental Wellbeing Working Group's web page, www.mwbhe.com/research

53 Grant 2006a: www.mwbhe.com/inc/files/documents/publications/mental_health_policy_framework.pdf

Alongside overarching mental wellbeing policies, a number of institutions have also implemented procedural frameworks to guide staged intervention and decision-making for situations where the onset of significant mental health issues may be problematic and/or interfere with a student's ability to meet stated academic, professional or behavioural requirements. Some of the key policies are outlined below.

### Fitness to Study

Fitness to Study frameworks and procedures assist in assessing risks, and taking appropriate action, in situations where the health or other personal circumstances of a student give rise to serious concern. These concerns may be about their ability to benefit from and participate in university life, or that their participation gives rise to a concern of risk, including risk of harm to self or others or of behaviour that is a significant nuisance or disruption to others.

These procedures generally comprise several stages with an initial intervention to offer support followed by monitoring of the effectiveness of any interventions. If the concerns continue, the next stage is likely to involve a more proactive assessment of whether the student should be encouraged (or required) to take a leave of absence and return to study at a point when they are well. They may also include provision to enable the student to be withdrawn from the institution if this proves appropriate or necessary. It is important that all students and staff, including those in support, administrative and academic roles, have a full understanding of the potential value and implications of the policy.

These procedures are most effective when the approach adopted is supportive and encourages students to make use of all the support available. Flexibility in their implementation to permit more assertive intervention where necessary is also important. The procedures should be aligned to relevant legislation such as the Equality Act 2010.

### Fitness to Practise

Fitness to Practise frameworks are applied where courses may lead to professional qualification and eligibility to register with a relevant professional, statutory or regulatory body upon successful completion. In these contexts, students are required to demonstrate that they are fit to practise within their profession and are not likely to put others at risk.

The focus and operation of these procedures will be largely determined by the relevant professional, statutory or regulatory body together with consideration of any health concerns. Management of these concerns may include profession-specific requirements and consideration of conduct outside the professional placement setting. Although some students may feel uncomfortable disclosing mental health difficulties in this way, some professional bodies, for example the General Medical Council (GMC), explicitly states that students suffering from mental health difficulties are welcome, but that they should disclose. The GMC offers guidance for those navigating the complexities of fitness to practise, mental health difficulties and student support[54].

54 GMC (2013), *Medical students: professional values and fitness to practise,* available at www.gmc-uk.org/education/undergraduate/professional_behaviour.asp

### Mitigating circumstances

Mitigating circumstances can be understood as those circumstances, outside a student's control, that negatively impact on a student's academic performance or ability to attend to their studies.

Mitigating circumstances policies require these circumstances to be evidenced and the impact of the circumstances to be made clear. As disability awareness and the complexity of demands made on students have increased, so too has their use of mitigating circumstances procedures. This has led to institutions enforcing the strict adherence to and formal use of their policies.

Mitigating circumstances procedures may present particular difficulties to students with mental health difficulties as their condition may fluctuate, they may be unable or unwilling to access support, unable to properly judge their need for mitigation, evidence their condition or engage with the mitigating circumstances process. We advise that mitigating circumstances policies be designed with explicit consideration to disabled students and students with mental health difficulties, including students with fluctuating conditions. Institutions are advised to ensure that disabled students and those with mental health difficulties are not adversely or disproportionately affected by the requirements of extenuating circumstances policies.

It is important that disabled students and those with mental health difficulties are reminded of mitigating circumstances and related procedures on their induction programme. It is recommended that the following are included in any induction materials:

- advice to students on how to find support from their academic school, student services or disability service should they find themselves in difficulty
- how to identify which aspects of the policy relate to his/her particular condition
- what evidence is needed to claim mitigation
- how important correctly following the process is in being granted mitigation.

### Fit to Sit

Fit to Sit frameworks make provision for the deferral of deadlines for assessed work or examinations in circumstances where students may need to request this for personal or health reasons and other extenuating circumstances affecting their performance. These procedures often include an expectation that by being present at an examination or submitting assessed work students are effectively deemed to be declaring to the institution that they are 'fit to sit' and thus the mark achieved in that examination will stand.

In developing such frameworks, institutions are advised to be mindful of the fact that some students with mental health difficulties may be unable at the crucial moment to accurately assess their own fitness to sit an examination. It is therefore advisable to build provision into academic appeals frameworks to respond appropriately to such circumstances. Including within such processes a robust appeals framework will assist in ensuring the fairness and lawfulness of such institutional procedures. A blanket implementation of this kind of policy might be considered to be unfair and in some instances individual cases may need to be considered on their merits.

Having guidance clearly set out and easily available will help students and support and academic staff make informed decisions.

### Crisis intervention

Crisis intervention frameworks outline the procedural and decision-making responses to situations that require urgent intervention. In some cases they are incorporated into fitness to study procedures. They offer guidance on how to respond appropriately to situations where evidence of mental health difficulties, or psychological, personality or emotional disorders may have a disturbing impact on the functioning of individual students and/or on the wellbeing of others around them.

It is advisable that these procedures outline responsibilities, actions, and reporting and information sharing arrangements that would apply in emergency or urgent situations and also set out processes for ensuring appropriate referral of key concerns to external agencies. It is also helpful to clarify the relationship between crisis intervention responses and disciplinary procedures and include details of the process for enabling students to take time out from their studies to attend to health concerns.

### Returning to study

Students who have taken a break from study because of ill health are likely to benefit from careful pastoral support and monitoring as well as additional sympathetic academic supervision on their return. The NUS recommends that a return to study process is included in intercalation policies and procedures. A carefully managed and monitored return, where the institution's obligation to support the student and the student's responsibility to engage with relevant support and academic staff is clearly mapped out is likely to facilitate a successful return and improve retention.

It is advised that all policies are easily available to all staff and students, and are written clearly with a simple process map to enable users to understand and follow the processes. These policies need regular and ongoing review to reflect the changing internal and external environment including any change in the NHS and local government provision.

**Recommendations**

**6** It is recommended that institutions have a wide range of policies available to cover the diverse needs of their students, in order to support their progress through their course as effectively as possible. When temporary withdrawal is considered the best option, these policies should enable students to return to their course with support in place. It is also recommended that fitness to study procedures contain appropriate provision to enable a student to request a return to study following a required withdrawal.

**7** Institutions should consider the applicability and implications of their student mental health-related policies and procedures in respect of arrangements with collaborative and other partners such as further education colleges, placement providers, schools and employers. They should also consider opportunities for joint action with partner institutions and bodies.

# 4: LEGAL IMPLICATIONS

**This chapter (and Annexe 2) provide:**

- A summary of the legal implications to be considered when devising and implementing policy and procedures
- Analysis of the legal context with reference to the student contract, duty of care, statutory obligations, judicial review, and institutional policies and procedures (Annexe 2)

The law in the area of student mental health is largely untested in the courts and is continually evolving, not least in response to developments in government policy such as those on widening participation and tuition fees. Annexe 2 summarises the key legal duties and implications for institutions in England and Wales only[55]. It also addresses the importance of institutions having robust institutional policies and procedures in place for dealing with student mental health matters.

Annexe 2 is intended as a general overview only and is not a substitute for institutions taking their own independent legal advice on such issues.

The legal duties and implications should be considered in the context of institutions' interactions with their students throughout their membership of the institution from admission to graduation and beyond, and across the spectrum of tuition, assessment, support, accommodation and so on. They should also be considered in the context of the wider student experience. Particular issues may arise in respect of whether an institution owes duties to a student who has left the institution, for example where the institution was providing them with counselling services up to the point at which their registration was terminated or in connection with any entitlements alumni may have to access an institution's support services.

Students' unions are generally legally distinct from their institutions and will need to consider their own obligations and arrangements for supporting students with mental health difficulties. However, the service for students will be improved by institutions working collaboratively and in consultation with their students' unions and student associations.

55 The legal context will vary for institutions in Scotland and Northern Ireland.

# 5: SUPPORT AND GUIDANCE STRUCTURES

**This chapter outlines:**

- Internal support services and structures that higher education institutions can consider establishing and developing
- External sources of support
- Guidance for working with the NHS

## 5.1 Internal support services

There has been a very significant growth in the specialist support and guidance services provided for students in higher education. The way in which such provision is organised and delivered varies across the UK sector, but is likely to include some or all of the following:

- counselling
- mental health advice
- wellbeing advice and support
- psychiatric consultancy
- services for disability, dyslexia and other specific learning difficulties
- support provided within faculties and teaching departments including personal tutors and other pastoral systems
- accommodation services, including resident welfare staff and peer supporters
- international student advice and guidance
- chaplaincy and multi-faith support
- financial guidance and resource
- academic learning enhancement and study skills advice
- mentoring and advocacy
- careers services
- student health and/or occupational health services
- peer-led support groups and student ambassadors and mentors

The minimum level and extent of pastoral support that institutions may be obliged to offer as a matter of law, and that (distinctly) which they may choose to offer, is addressed in Annexe 2. Structures and practices that facilitate coordination between all relevant support services are increasingly necessary as the range of these services expands.

Students with mental health difficulties may be particularly susceptible to getting lost in any complex system and inadvertently forgotten if services do not have effective and consistent ways of sharing information. In some institutions the response has been to bring student services together within a 'one stop shop'. Others achieve this by means of a group, committee or individual with responsibility for co-ordinating services and regularly reviewing policies and procedures. Technology can also play a valuable role in improved communications.

It is advised that careful consideration be given to when, how and how much information is shared. It is suggested that informed consent and, more widely, the fair and lawful sharing of personal information are clearly addressed at an institutional level, where a policy can be agreed and made available to academic departments, service areas and students. Information about a student's mental health is sensitive personal data under the Data Protection Act 1998, and therefore greater constraints on the fair and lawful sharing of such information will apply.

Coordinated provision also facilitates the meeting of agreed institutional strategies and the systematic planning and use of resources. Student feedback is a key element of any institutional process for developing and monitoring policies and services.

Institutions can provide clear routes of access to services for those students who decide to seek advice and help for themselves or for others. They may also wish to develop additional support systems for individuals with mental health difficulties by, for example, offering a mentor or buddying scheme.

Equality legislation has developed since the original publication of the CVCP/SCOP guidelines in 2000. Institutions must be mindful of their obligations in the context of student mental health under the Equality Act 2010 which reformed and harmonised equality law, including the law in relation to disability discrimination.

Alongside this development, social inclusion and anti-stigma campaigns have led to an increase in disclosure by applicants and current students of disabilities and mental health difficulties. This is a positive step forward as it assists institutions in identifying the support prospective and current students may need and ensuring that they have access to support-related information such as the Disabled Students' Allowance (DSA)[56].

Admissions procedures should encourage disclosure (subject to compliance with the institution's obligations under the Data Protection Act 1998). Processes that ensure effective liaison between admissions departments and specialist services within their institution should strive to maintain an appropriate level of confidentiality and ensure that applicants who declared a disability or mental health difficulty are not viewed or responded to negatively.

Support services at universities are most effective when their purpose is to enhance the student experience and not merely ensure compliance with relevant legislation. Some students may disclose their difficulties only within their personal statement and not on the UCAS application tick box section. It is usually desirable (subject to data protection obligations) for such additional information to be shared with the relevant parts of the institution so that the student can be offered appropriate support. Such practice is best fully embedded within all institutional applications processes so that it is applied not only to undergraduate or postgraduate admissions but also to professional courses, widening participation summer schools, conferences and workshops.

56 In 2014 the government announced changes to the rules for DSA funding from 2015-16. HEFCE has also set up a review of all funding for disability, including DSA funding.

Notwithstanding the general increase in disclosure, many applicants and students with mental health difficulties continue to remain reluctant to disclose them. This might be due to concerns regarding the reactions of others and an anxiety about stigma and potential discrimination that could jeopardise their future academic and employment careers. Their concerns may be based on negative experiences before university such as bullying and stigma in school, college or the workplace[57].

To enable applicants and students to reach their full potential and feel confident that any difficulties will be met with understanding and not viewed as a deficit, institutions should ensure that there is a commitment to providing appropriate support services in a discrete and student-friendly manner that focuses on encouraging the student's talents, and offering strategies and mechanisms for independent study. The availability of such support should be communicated widely across the student and staff body and to parents, carers, and schools and colleges.

Clear procedures are required for supporting students with mental health difficulties, including the handling of crisis situations, including those when the student is studying away from the institution. Such procedures will need to demonstrate consistency of approach and sensitivity to the diversity of individual needs as well as regard to the institution's legal obligations under the equality legislation. They should also ensure that both students and staff are supported from pre-admission to post-exit.

When students withdraw or suspend (or are withdrawn or suspended from) courses as a result of mental health difficulties, all reasonable efforts should be made to assist them both in their transition out of the institution and when they resume their studies if, or when, it is appropriate to do so. The provision of appropriate support and the making of reasonable adjustments should be considered, in the context of fair and robust return to study processes, via the relevant support services in liaison with academic staff as appropriate. Policies reliant on students accessing treatment outwith the university during a defined period of time may need to take full account of lengthy waiting times for some external services: one year or longer waiting lists are not uncommon for some specialist provision.

## 5.2 External sources of support

Information about external agencies that can provide help to individuals and their friends and families is an essential component of effective support. Specific advice on working with the NHS is given in the next section.

External agencies may be local or national bodies, including GPs and hospitals. Institutions should ensure that students know how to register with a local GP; some have made registration compulsory through university policy. Direct contact with a local GP will facilitate quick referrals to specialist services if needed. These latter include:

- local mental health services
- psychological services
- independent counsellors
- health authorities

57 See: https://www.gov.uk/government/groups/children-and-young-peoples-health-outcomes-forum

- specialist agencies, for example, drug and alcohol agencies and mental health support groups
- local and national voluntary organisations
- local user groups
- telephone help lines (national and local call rate numbers)
- websites and e-mail groups. Since institutions work within the parameters of local health service resources whose provision in certain areas can be limited, they may need to develop strategies to address how to manage any identified gaps, particularly in respect of services which they are unable to offer themselves.

### Development of partnerships

The development of partnerships between institutions and external agencies is critical, particularly during periods of austerity when external services are being cut back. By building up relationships with external agencies, cross referrals can be facilitated and increased dialogue can help institutions develop their expertise. In return, external organisations can gain some understanding of institutional policies and procedures and the needs of the student body and are therefore more likely to provide relevant information, advice and training where necessary.

The establishment of partnerships can also be helpful in supporting health promotion. Voluntary agencies such as the Samaritans and Mind frequently collaborate with universities to promote mental health and wellbeing. This is of particular importance in cases where there is insufficient attention given to planning for student communities by NHS commissioning bodies and consequent pressure on institutions to provide services that will go some way towards filling any gaps. More detailed information about working with the NHS is given below.

### Central point for communication

Institutions might consider identifying a central point for communication with local mental health agencies and other relevant external organisations. This may be a mental health professional who can also provide advice to students and staff on a regular basis, or someone at senior management level advised by the director of student support or equivalent. This will help ensure synergy between operational needs and strategic aims. If a close professional relationship with local mental health services can be forged, communication and liaison between NHS and institutional services and the successful progression of referrals can be significantly enhanced.

## 5.3 Working with the NHS

Liaison and joint working with the NHS Services can be vital for student mental health and wellbeing. Good joint-working can enable safe transitions, ensure access to general medical and specialist mental health supports, avoid duplication and facilitate the management of risk and response to crises.

Joint arrangements can address the difficulties and potential risks students encounter in accessing mental health support and treatment including:

- transition from home to higher education and the move to a new GP
- transfer of an existing care package, or care-coordination under the NHS Care Programme Approach to a new secondary care provider
- ensuring the availability and timing of NHS inputs to match the academic year and student availability when practicable
- ensuring that NHS providers understand the nature of university life, which can help to enhance the response towards a student and ensure that appropriate adjustments are provided

Higher education institutions may wish to map local NHS resources, referral pathways and communication channels against university resources to look for areas of complementarity, duplication and gaps. Particularly relevant are:

- university GP and other local GP practices to help ensure prompt registration and develop confidentiality and information sharing protocols
- Community Mental Health Teams linked to GP practices
- local accident and emergency departments and psychiatry liaison teams in hospitals especially for crises and out-of-hours provision
- specialist teams such as Crisis Intervention, Home Treatment, Early Intervention in Psychosis/Schizophrenia and Early Detection Teams
- local psychological therapy services both primary, including Improving Access to Psychological Therapies (IAPT), and secondary longer-term or more specialised therapies
- specialist programmes addressing eating disorders, autism spectrum disorders, adult attention deficit hyperactivity disorder, complex personality disturbances

With this information pathways can be streamlined and protocols co-developed with relevant NHS providers.

It is not uncommon for resources between NHS areas or sectors to differ, resulting in less or more provision being available when a student moves to higher education. This crucial transition period can involve a move from NHS child and adolescent to adult NHS services, with implications for both resources and styles of engagement and follow-up. Students may not be aware of this potential interruption to their mental health service access and may need to be made aware of the need to re-register for NHS services in their institution's locality. Similarly at the end of a higher education period students may need to be referred back into NHS services; ready and accurate information will help with continuity of support.

These transitions have been addressed in some areas by pre-entry bridging activities, which may provide an effective way of briefing incoming students on the practical details of health registration processes and supporting them with appropriate onward referral to specialist services. Bridging activity may initially involve on-campus mental health advisors or peer mentors, followed by an engagement and advocacy programme at the start of the academic year in order to minimise any significant discontinuity in care.

There are various mechanisms for linking with the NHS. At a higher level, some universities have input to NHS commissioning by contributing to the local Public Health Needs Assessment and the agenda of the Health and Wellbeing Board in the Local Authority. Similarly some universities are making representations to or seeking a student health champion on the local GP-lead Clinical Commissioning Groups.

Campus-based universities may be able to convene regular service provider liaison meetings bringing together interested parties and student representatives to work on improving communication and protocol development including reporting and learning from incidents, relevant audit and responding to student feed-back.

This type of liaison can also include joint training events or innovative developments such as shared posts or service level agreements for specific inputs such as psychiatric nursing or consultant psychiatrist or psychologist sessions.

Institutions are advised to engage with and seek the advice and expertise of sector-wide groups referenced in Chapter 2.2. It may also prove useful to liaise with other local higher education and further education colleges to exchange information and advice and collaboratively engage with local service providers.

**Recommendations**

**8** To ensure that services are adequately resourced and working effectively the operation and capacity of services should be regularly assessed in relation to demand and effectiveness. Ongoing evaluative feedback should be sought regularly from service users and other students and staff.

**9** Client feedback and service evidence should be collated and reported to the institution's governing body with a view to identifying future enhancements and priorities in promoting student mental wellbeing.

# 6: RAISING AWARENESS AND TRAINING

**This chapter addresses:**

- Raising mental health awareness across the whole university population
- Effective training for university staff in mental health awareness and referral protocols
- Levels of training and matters to consider when compiling training and support service promotional materials
- Why clarifying who has responsibility is important
- The nomination of an institutional champion
- Guidance on inductions for both staff and students
- Equality, diversity and inclusion
- Effective dissemination routes for mental wellbeing-related information
- Additional sources of external information, advice and guidance

## 6.1 Context

Mental ill health is gradually losing its stigma in higher education, and awareness of the importance of good mental health is developing within most higher education institutions. While there remains some concern and fear about how to respond to mental ill health, staff and students are becoming more aware about the importance of counselling, mental health and disability services as appropriate points of referral. Many institutions have introduced wellbeing initiatives for the prevention of mental health problems and to create a more holistic institutional experience. However, students often prefer to get help from those they know and feel close to, for example, friends and family.

All staff and students benefit from having access to information about the importance of positive mental health and wellbeing. Specific information and guidance relevant to institutional policies and protocols addressing mental ill health is also beneficial. This could include a comprehensive directory of the range of (and limits on) internal and external support services available both in and out of office hours and in emergency situations, accessible on institutional intranet sites. Ensuring support and auxiliary staff, such as student accommodation managers or tutors are aware of the directory and how they can help in a crisis is also important.

Staff and students with specific responsibilities (for example tutors, residence managers, wardens, peer mentors and security staff) will benefit from more detailed information and protocols, and appropriate training. NHS Health Scotland's Promoting Mental Health Improvement training resources[58] are a useful inspiration and departure point for developing institutional specific training.

58 http://elearning.healthscotland.com/course/view.php?id=6

## 6.2 Levels of training and information dissemination

To be most effective, information dissemination should take particular account of the target audience. Three levels are defined here:

Level 1 encompasses the whole institutional population

Level 2 comprises staff and students who have more defined pastoral roles or whose roles require particular sensitivity to problematic issues, such as personal tutors, academic advisers, supervisors, admissions staff, examination officers, peer mentors, residence staff, and security staff. Students' union and students' association staff and sabbatical officers should also be included. Student unions and associations are encouraged to consider their own obligations for supporting students with mental health difficulties whilst nonetheless engaging in appropriate consultation and collaborative initiatives with their institution

Level 3 comprises those specifically employed to work with students with mental health difficulties such as counsellors, mental health advisers, university psychiatrists and medical staff

### Level 1

The dissemination of information for the whole institutional community might include:

- guidance for those who may encounter students who are distressed or disturbed. Flow charts can be successful in clarifying best practice. Key topics to consider include:
  - how to identify that there may be a mental health problem
  - identification of whether a situation is urgent or non-urgent and what to do in both cases
  - how to respond both inside and outside office hours
  - how to react if the student or staff member refuses help
  - a list of all the support services offered in the institution
  - handling critical incidents regarding mental ill health
  - a list of emergency numbers including police and local hospitals
  - a brief on confidentiality and data protection procedures (who information can be shared with, when, and what implications of disclosure might be for students i.e. in relation to fitness to practise)
- awareness-raising information at inductions for new staff and students
- dedicated inductions for students who disclose a mental health difficulty or disability on application
- mental wellbeing information on institutional websites and academic and student services intranets
- use of online computer-based educational and preventive programmes[59]
- 'Healthy university' initiatives, awareness raising and anti-stigma campaigns

59 Those currently available include: Beating the Blues (www.beatingtheblues.co.uk); the Ultrasis Relief Series (www.ultrasisplc.com/index.html); MoodGym (www.moodgym.anu.edu.au/welcome); Kognito (www.kognito.com/)

- generic training for staff or students such as Mental Health First Aid[60] or NHS Scotland's Promoting Mental Health Improvement programme[61]
- general leaflets, posters
- dissemination of government and NHS health board information
- information about web-based and face-to-face resources within the institution including student support services information and online self-help and library resources
- students' union and students' association activity and literature
- information about national days that promote mental wellbeing and internal mental health awareness campaigns
- awareness raising among students and staff of relevant institutional regulations and processes, such as fitness to practise and fitness to study
- promotional material about the student experience
- student handbooks and support group networks and web-based blogs
- web-based videos on YouTube

### Level 2

Additional training and resources at this level would be appropriate for staff and students with more specific roles such as course leaders, advisers / directors of studies, personal tutors, peer mentors, mediators, anti-harassment advisers, residence wardens, and others with a pastoral or supportive role including those in students' unions and associations. It could include:

- dedicated training opportunities on institutional provision, provided in-house by student support service staff
- training on the institution's legal obligations
- training on confidentiality and data protection
- training from external organisations such as MIND, the Samaritans, or the Mental Health First Aid Company
- specialist on-going support, for example:
  - *Case discussion groups.* These allow relevant staff to come together to discuss mutual concerns about individual students deemed to be at risk
  - *A staff consultation service run by the counsellors and or mental health advisers.* These can help staff members who wish for advice on how best to support students who may be disturbed or distressed. In order to preserve confidentiality, it is often possible to discuss cases without revealing the identity of individuals[62]
  - *Better sign posting/marketing of services and support from internal and external providers*

60 Mental Health First Aid, www.mhfaengland.org/

61 Promoting Mental Health Improvement programme, http://elearning.healthscotland.com/course/view.php?id=6

62 When information about individuals is shared or discussed, it is important that due consideration is given to institutional confidentiality policies and the requirements of the Data Protection Act 1998.

### Level 3

Those who work in a professional student advisory capacity including counsellors and disability and mental health advisers, will need ongoing training opportunities to ensure that they remain up-to-date with developments relevant to their role and are appropriately qualified commensurate with their role. Areas of training that may be particularly relevant include the following:

- working with students with certain specific difficulties, including eating disorders, self-harm, personality difficulties, Autism Spectrum Disorders including Asperger syndrome
- responding to critical incidents
- institution's legal obligations in respect of, for example, data protection and confidentiality
- suicide prevention
- developing relationships with voluntary and statutory organisations
- working in partnership with local NHS mental health units to ensure that students using tertiary care are supported as well as possible
- using online resources including Facebook and Twitter to support wellbeing. Clear guidelines are required if this social media are used as a means of contacting students

## 6.3 Responsibility

While the number of institutions with mental health policies in place has significantly increased over the last decade, it remains vital that clear lines of responsibility are identified within institutions to ensure that policies and associated guidance documents remain actively enforced and regularly updated. Documents that provide guidance on supporting students or staff with mental health difficulties are usually prepared by heads of student services, counsellors and /or mental health advisors but should be owned by and embedded within the institution at large in order to be effective.

Institutional mental wellbeing policy and practice may best be developed and written by a working group composed of a range of staff with different expertise in relevant aspects of mental health and its impact on students and staff in the academic environment, including, for example, counsellors, mental health advisors and academic staff with student advisory roles. It may also be helpful for those group members to be involved in the preparation and delivery of associated staff training. In smaller institutions it might be possible through local networks or professional mail bases to work together with other local institutions.

## 6.4 Nominating a champion

It is helpful to identify a champion within the institution who would promote the importance of training, and raise awareness of the student services that provide the specialist guidance and support. Ideally, this person would have some overall responsibility for the overall student experience, for example a dean or pro-vice chancellor, and if possible should be a member of the institution's senior management team.

## 6.5 Inductions

It is good practice to promote mental health awareness and provide information on the availability of support services in new staff and student inductions. Information should be made available in a variety of formats, including via social media.

Knowledge of general referral procedures is important for students as well as staff so that housemates, peers and friends can appropriately refer students who are demonstrating behaviour that is causing concern. Inductions for both students and staff should include information on whom to consult to discuss how best to refer or provide support and how to maintain their own role boundaries. Members of staff to whom such information is disclosed should ensure that they are familiar with the obligations for the fair and lawful processing of personal information under the Data Protection Act 1998.

Training relating to mental health has maximum impact when embedded in institutional staff development programmes, including those for new staff. Such training is most effective when written into mainstream activity and is not solely the responsibility of particular support or administrative services.

## 6.6 Equality, diversity and inclusion

All web-based and written documents, and PowerPoint and Prezi presentations, should be made accessible to all, including those using YouTube and other social media. Advice on the presentation and format of all documents can be discussed with a disability advisor or equality and diversity officer. It is also sensible to make all documents available electronically so they can be translated into accessible formats, for example Braille and, when necessary other languages. Consultation and collaboration with staff with expertise in equality and diversity and with students' unions will help ensure that publicity material is inclusive and non-stigmatising.

Institutions may wish to consider developing dedicated training, information and support measures to address the needs of particular groups within the student body, including disabled students, care-leavers, international students, mature students, postgraduates, part-time students, students who are under 18 and those with caring responsibilities.

It is also important for institutions to consider the potential impact of mental ill health in the context of programme design, delivery and assessment and internal student regulations including complaints and disciplinary procedures.

## 6.7 External resources

There is a wealth of training and self-help information available from national and local voluntary and statutory organisations, including in particular the Samaritans[63], Mind[64], Mental Health First Aid[65], ReThink Mental Illness[66] and Papyrus[67].

The NUS and local students' unions and students' associations also regularly run mental health campaigns and produce useful websites and leaflets written from the student point of view. Chapter 2.4 of this document includes information about a range of useful student initiatives.

**Recommendations**

**10** In view of the crucial role of staff development, institutions are encouraged to give priority to incorporating relevant staff development sessions within their annual programme of activities.

**11** Consideration should be given to making training on mental health awareness and the protocols for reporting concerns available to all relevant staff. This includes academic and related departments, service and support areas, frontline and auxiliary staff, personal tutors, house/hall tutors and departmental disability officers. Such training could be cascaded to staff who have a front line role including cleaners, canteen and library staff, whether they are permanent, contract or agency staff.

63 http://www.samaritans.org/
64 http://www.mind.org.uk
65 http://mhfaengland.org/
66 http://www.rethink.org/
67 http://www.papyrus-uk.org/

# ANNEXE 1: A MENTAL HEALTH FRAMEWORK

### Principles, aims and objectives

Statement of purpose of policies/codes; principles underpinning the support of students with mental health difficulties including roles, responsibilities and potential contributors (institution, staff, students, students' unions/associations, NHS primary and secondary care providers, community and voluntary groups); definitions and terminologies.

### Context and legal framework

Higher education and national contexts; understanding of legal obligations (including those arising under the student contract, natural justice, duty of care, equality legislation (including the making of reasonable adjustments and the public sector equality duty), data protection legislation and confidentiality, health and safety legislation and human rights legislation) and potential liability (including for breach of contract and misrepresentation, breach of natural justice (judicial review), negligence and breach of statutory duty (including discrimination).

### Pre-admission and admission

Pre-application visits; information about support available; encouraging declaration; needs assessment; availability of specialist provision; accommodation; additional funding; risk assessment; medical evidence; admissions to professional programmes: clarifying criteria for admission and fitness to practise; reasons for, and feedback on unsuccessful applications.

### Entry and induction

Information about guidance and support services; induction procedures; additional support for students who may be particularly at risk; personal support and mentoring; information requirements; liaison with relevant external bodies to facilitate transition.

### Accommodation

Procedures for disclosure of relevant information to accommodation staff, including wardens and sub-wardens or equivalents, cleaners and security staff; room allocation; boundaries for acceptable and non-acceptable behaviour; relevant disciplinary procedures; notice to quit; training and guidance for accommodation staff; consideration of the terms of the student accommodation contract and its interrelationship with the student contract.

### On course

Personal tutor arrangements; on-going opportunities for disclosure; guidance for academic, professional, administrative and student services staff; mechanisms for liaison between academic departments and central services; roles of individual student service units; liaison with external agencies; course and assessment requirements and procedures including relevant adjustments or dispensations; mitigating circumstances procedures; fieldwork, year abroad, work placements; special examination arrangements; crisis intervention protocols; fitness to study procedures; fitness to practise procedures; at risk procedures including risk assessment for suicide and self-harm; emergency contact protocols; disclosure and confidentiality policies; data protection and record keeping; responsibilities and processes for cross-institutional staff guidance and training.

### Interruption of studies and exit prior to completion

Procedures for interruption/intercalation; financial and other support for students who interrupt their studies on health grounds; return to study procedures following periods of absence or interruption; liaison with central services; liaison with external bodies.

### Preparation for transition and graduation

Specialist careers advice and guidance; opportunities for disclosure to careers staff; guidance on disclosure to prospective employers and professional/regulatory/statutory bodies; referees and references.

### Student diversity

Specialist services and support for particular groups of students, including international students; sensitivity to/understanding of cultural and religious differences in attitudes to mental illness.

### Complaints and disciplinary procedures

Harassment and persistent complaints; complaints from fellow students; duty of care conflicts; responses to unusual, violent (including self-harming) and disruptive behaviour; assessment of possible impact of mental health difficulties prior to disciplinary procedures.

### Health promotion, training, support and guidance

Mental health promotion; addressing stigma and ignorance; induction, training, support and guidance for staff; awareness raising, support and guidance for students (including friends, carers and those sharing accommodation).

### Monitoring and evaluation

Methods for monitoring the effectiveness and impact of the policies and procedures, quality assurance mechanisms.

### Additional or related policies, protocols, procedures and guidance

Confidentiality and data protection policies and information sharing protocols (internal communication and communication with third parties such as parents, placement providers and external agencies)

Alcohol and drugs policies

Dignity at study policies

Fitness to practise policies and procedures

Fitness to study policy and procedures

Fit to sit

Mitigating/extenuating circumstances procedures

Crisis intervention protocols

Return to study procedures

Equal opportunities policies

Duty of care for under-18 year olds

Critical incident management, including procedures for responding to student death

Examination and assessment procedures for students with mental health difficulties

Joint working with external bodies (including the NHS and voluntary bodies)

Suggestions for additional guidance resources

Guidance for staff (all categories) on helping students in difficulties (including guidance for personal tutors/advisers)

Guidance for students experiencing particular difficulties

Guidance for students concerned about their friends

Outline training programmes for different categories of staff and student

# ANNEXE 2: LEGAL IMPLICATIONS

*The following section has been kindly prepared by Siân Jones-Davies, Senior Associate, Eversheds LLP.*

Whilst the law in the area of student mental health is still evolving, and on many issues is untested, the key legal aspects relevant to managing students with mental health difficulties can be stated and are summarised in broad terms below as they apply in England and Wales. The legal context will vary for HEIs in Scotland and Northern Ireland. The following summary is a general overview only and is not a substitute for institutions taking their own independent legal advice on these issues. The legal implications should be considered in the context of institutions' interactions with their students throughout their membership of the institution from admission to graduation and beyond and across the spectrum of tuition, research, assessment, support, accommodation and so forth. They should also be considered in the context of the wider student experience. Particular issues may arise in respect of whether an institution owes duties to a student who has left the institution (for example where the institution was providing them with counselling services up to the point at which their registration was terminated or in connection with any entitlements alumni may have to access an institution's support services).

## The student contract

It is as a matter of law now accepted that a legally binding contract exists between the institution and each of its students (referred to in this Annexe as the "student contract"). Moreover, the student contract is regarded in law as a consumer contract and, as such, will be subject to the application of consumer legislation including the principles of fairness and reasonableness interpreted in favour of the student.

An institution which breaches the terms of the student contract (for example, by promising something which it does not subsequently deliver) exposes itself to potential complaint by the student under the institution's internal student complaints procedures and (in respect of institutions in England and Wales) to the Office of the Independent Adjudicator for Higher Education (the OIA) in addition to claims to the courts for breach of contract and/or misrepresentation. A student who brings a successful challenge in the courts may be awarded monetary compensation in respect of any loss they have suffered arising from the breach of contract or misrepresentation. Regulators (including the Competition and Markets Authority) are also given rights to challenge institutions where they believe unfair terms are being used against students to those students' detriment.

Quite apart from the management time and legal costs that may be incurred by an institution in dealing with complaints and claims, the institution may also risk injury to reputation.

The terms of the student contract will set out the respective rights and obligations of institution and student (for example, in relation to the teaching and pastoral services that the institution will deliver, the institution's power to discipline or to take action to deal with concerns regarding a student's fitness to study or fitness to practise, and the student's obligations to meet academic progression requirements and to pay fees). The student contract may incorporate terms set out, for example, in offer letters, prospectuses, course literature, student handbooks, the institution's regulations, information stated on its website and oral statements made by staff. These terms may include, for example, provisions relating to the nature, extent and limitations of the mental health support services offered by the institution.

It is important that institutions ensure that all statements made in connection with the student contract are factually accurate and not misleading in any way. Institutions should also ensure that the services and facilities described in the student contract are delivered in practice.

Institutions should ensure that the student contract, and institutional information generally, give a realistic impression of student life at the institution, on particular programmes of study, living in particular halls of residence, and so forth.

Some institutions have sought to summarise the terms of their student contracts in a single document which can be used to 'signpost' students to more detailed information and to draw any particularly onerous terms to students' attention before the student contract is formed.

It is important that all terms on which the institution may wish to rely are properly incorporated into the student contract prior to the formation of the contract as purported terms that are brought to the attention of students after the student contract is made (for example, on subsequent registration or enrolment) may, as a matter of law, not be incorporated into the contract and so not constitute provisions on which the institution can rely.

The point in time when the student contract will come into existence will depend on the particular contracting structures and processes adopted by each institution and care will need to be taken to ensure that the timing of this "crystallisation" of the student contract is made clear to the student at the outset in order to avoid any uncertainty.

Offers made by an institution of a place on a programme of study may be subject to conditions specified by the institution such as the student achieving certain examination results or successfully completing health or criminal conviction disclosures.

Institutions should take care to explain accurately and in plain and intelligible language the nature of the support services and facilities which they offer to all students, including those with mental health difficulties (such as counselling and pastoral tutor support), and the extent and limitations of that provision (for example, in respect of opening times, any appointment systems operated and whether provision of the service is subject to demand (even in the case of emergencies) together with details of any exceptional circumstances where such services may not be available to students).

Crucially, institutions should identify those services which they do not provide (for example, 24/7 counselling services or emergency mental health treatment) and signpost students to where they will need to look to secure such support (for example, local NHS provision) or to seek support in cases where the institution is unable to

offer its usual services (for example, because of over-demand or staff shortages). This will assist institutions, to some degree, in setting the parameters of their legal duties (especially under the student contract) and managing their exposure to potential challenge and liability.

Any disclaimer or force majeure clauses, setting out the type of circumstances in which institutions may reasonably be unable to offer services (for example, in respect of staff shortages or resource constraints), that institutions may wish to incorporate into the student contract should be subject to a legal assessment as the nature of such clauses will require a greater degree of attention to ensure their terms may be enforced in the future.

By taking the above steps, institutions will be assisted not only in seeking to ensure that they deliver on the contractual promises they are making in their student contracts, thereby minimising exposure to complaint and claim from students, but also proactively to manage the expectations of students and prospective students.

At the time of writing, consumer legislation in the UK is shortly to be subject to change with the enactment of the Consumer Rights Bill. The bill is expected to be enacted in October 2015 and seeks to consolidate large parts of existing UK consumer legislation, including provisions relating to unfair consumer contract terms and the introduction of statutory guarantees and remedies in favour of students. Institutions are advised to take legal advice over the coming months (and to familiarise themselves with any published guidance) on the impact the bill will have on their dealings with students.

## Negligence (duty of care)

Whilst the law in the area of an institution's duties in respect of student mental health is largely untested in the courts, it can broadly be stated that institutions have a general duty of care at common law: to deliver their services (for example teaching, supervision, pastoral) to the standard of the ordinarily competent institution; and, in carrying out their services and functions as institutions, to act reasonably to protect the health, safety and welfare of their students.

Whether a duty of care arises (and whether it has been breached) in any given case will depend on the particular facts and circumstances arising in that case. Where it is alleged that an institution has breached a duty of care the institution may be exposed to potential claims in negligence in the courts in addition to complaints under institutional complaints procedures and (where the complaint is made by a student) to the OIA.

In establishing whether a duty of care exists in a particular case the courts will consider whether there is a close or proximate relationship between the parties (which is often likely to be the case between an institution and its students), whether the damage which has arisen was reasonably foreseeable and whether it is fair, just and reasonable to impose a duty.

In determining whether a duty arises, the extent of the duty and the standard of care that must be met to discharge it, the courts are likely to have regard to specific sector guidance in the area such as that issued by sector bodies such as UUK, GuildHE, the Universities and Colleges Employers Association and the Quality Assurance Agency for Higher Education and the common practices at similar institutions.

Where a duty of care exists, the standard of care and skill which the institution must meet in discharging the duty is that provided by the ordinarily competent institution. In relation to members of staff working with students with mental health difficulties (such as tutors, hall managers, wardens, placement officers, student support officers and counsellors), the standard expected is that of the ordinary skilled man exercising and professing to have that special skill (Bolam v Friern Hospital Management Committee [1957] 2 All ER 118 at 121). As such, the requisite standard may be higher for trained healthcare professionals (such as counsellors) than for other student support staff. It is therefore crucial that institutions ensure that all relevant members of staff have and maintain the appropriate levels of expertise, qualification, training and registration to carry out their duties to the required standard.

The nature of the duty of care may be enhanced where the student has a particular vulnerability such as a mental health difficulty or is under the age of 18 or is an international student.

An institution's duty of care will inevitably include the provision of some form of pastoral care although the precise nature and extent of the pastoral care to be offered will be largely down to the choosing of the individual institution. It can be anticipated that the more extensive the pastoral services provided by an institution, the greater the extent of the pastoral duty of care in practice that the institution is likely to owe to its students in comparison with an institution which has chosen to provide a more basic level of pastoral service. In determining the nature and extent of the pastoral support services an institution might wish to put in place, it will no doubt have regard to aspects such as: its mission and ethos; the nature of the academic programmes and research opportunities it offers; the characteristics of its own student body; the type of support that its students may need and may expect to be in place; fair student access, retention and achievement; enjoyment of a wider student experience; and the extent of external local mental health support.

Institutions will also need to be mindful of the Quality Assurance Agency's expectations of the arrangements higher education providers should have in place to support students in their learning opportunities and academic experience.

Institutions may wish to offer a level and extent of pastoral support service which is above the strict legal minimum in order to fulfil individual mission plans, and for example, to achieve a competitive advantage as a 'caring' institution.

Questions of potential liability in negligence (and indeed in contract and for breach of statutory duties) may arise not only in crisis situations (for example where a student has self-harmed or attempted suicide or is judged to pose a risk of harm to themselves or to others) but also in less extreme cases such as where they have achieved poor academic results due to alleged lack of support.

Particular issues may arise in respect of students with undeclared or undiagnosed mental health difficulties as to whether the institution is "on notice" of those difficulties (for example where students engage in bizarre behaviour which is noted by members of cleaning or catering staff but not by "frontline" support staff or by academic staff).

Institutions need to consider carefully how to balance the duties of care which they owe to individual students with mental health difficulties with the duties they owe to other students, staff and relevant third parties (such as, where appropriate, placement providers or placement service-users).

In light of the above, and in order to assist in discharging their duties of care, institutions need to ensure that all staff (not just staff involved in the provision of pastoral support) have a clear understanding, appropriate to their roles, of the nature and remit of their responsibilities regarding students with mental health difficulties. This will call for the provision by the institution of suitable training and awareness-raising events for staff. Staff should feel confident in recognising when students should be advised to seek specialist support and when matters should be referred on (in appropriate cases unilaterally without students' consent) to specialist services or agencies. Such specialist support, services and agencies may be located within the institution (for example a counselling service or campus GP practice) or external to it (for example local NHS, community or voluntary mental health services or in appropriate cases social services or the police).

Institutions should have clear, published and well-publicised referral protocols, policies and procedures. Clear parameters should be established within which institutional support services will work and referrals will be made. Internal and external referral contacts should be explicitly identified and kept updated and there should be unambiguous processes for referral. Specific responsibilities should be assigned to named members of staff to ensure that students are appropriately supported and referred promptly particularly in crisis situations. In addition, institutions should make clear to students the parameters of the institution's duty of confidentiality (and the type of circumstances in which confidentiality may be overridden) and obligations under the Data Protection Act 1998 (particularly in respect of the lawful reasons for data processing without consent and data sharing with third parties).

Institutions should keep accurate, objective and succinct records of the actions they take in managing students with mental health difficulties (for example: in general terms, in relation to the provision of training to staff and the updating of relevant student regulations such as fitness to study policies and procedures; and, with regard to individual cases, in relation to support provided, risk assessments undertaken and intervention, referral and other decisions made together with the reasons for those decisions). Such records will assist institutions in seeking to demonstrate that they have discharged their legal responsibilities. In producing, maintaining and disseminating these records institutions must remain mindful of their obligations to process students' personal data fairly and lawfully in accordance with the Data Protection Act (see below). Institutions should also bear in mind that students have rights of access to certain information under the Data Protection Act and the Freedom of Information Act 2000 and to disclosure of documents in the course of complaints to the OIA and in litigation. Institutions will need to strike a balance between ensuring that proper record-keeping is in place and managing the potential for such records to be disclosed to students in specific instances.

## Statutory obligations

In addition to the areas of contract and negligence, institutions need to be aware of their statutory obligations in the context of managing students with mental health difficulties. The key legislation under which these obligations arise is set out below:

### Health and Safety at Work Act 1974 (HSWA)

The HSWA is the cornerstone of UK health and safety law. Under the legislation an institution has a duty to do everything reasonably practicable to ensure the health and safety of those affected by its undertaking, including its students. Breach of the Act may result in civil and/or criminal claims and liability. In order successfully to defend a criminal prosecution and/or civil claim, an institution would need to prove to the relevant standard of proof that it had done everything reasonably practicable to ensure the health and safety of the individuals in question. (The standard of proof in civil matters is the balance of probabilities and in criminal matters is beyond reasonable doubt.)

In the context of student mental health this is likely to include the institution demonstrating that it had in place appropriate systems and practices to manage and support students with mental health difficulties through, for example, the type of student related policies and procedures described in this guidance as well as others such as student occupational health protocols, and that students had access to the services and support on offer from the institution.

In the criminal context, HSWA offences are investigated and prosecuted by the Health and Safety Executive (HSE) and the primary penalty upon conviction (following a successful criminal prosecution) is a monetary fine which is unrestricted in the most serious cases. While the HSE does not regard mental health issues in institutions as an enforcement priority, it will be interested when investigating matters following incidents such as a student death on campus to identify what arrangements, policies and procedures the institution had in place to support students with welfare problems.

### Coroner's and Justice Act 2009

In the event of a 'violent or unnatural' death, the local coroner is obliged to investigate. Police normally act as Coroner's officers and collect evidence to help the Coroner determine the answer to four questions: who the deceased was; when they died; where they died; and how they died. The Coroner will normally hold an inquest following a student death to answer those questions in a public forum, which the family of the deceased and the institution will normally be invited to attend to listen to the evidence and potentially ask questions of any witnesses. The Coroner may make formal recommendations to prevent future deaths.

### Equality Act 2010 (EA)

Under the EA institutions have legal duties not to discriminate, harass or victimise applicants or students in respect of the protected characteristics defined in the Act and to make reasonable adjustments in respect of applicants and students with disabilities. The 'protected characteristics' under the EA relevant to applicants and students are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation (but not marriage and civil partnership).

The duty to make reasonable adjustments arises where a disabled applicant or student is put at a substantial disadvantage by comparison to non-disabled individuals. Disabled applicants and students are entitled to specific reasonable adjustments in respect of their particular support needs. In addition, institutions have an anticipatory duty to provide reasonable adjustments in respect of their general student body. Relevant reasonable adjustments in the context of student mental health might include (depending on the facts of a particular matter) making changes to the manner in which a part of the student's programme of study is delivered or assessed or in respect of the procedure by which their conduct is managed. What is a reasonable adjustment will depend on the circumstances of the individual matter including (as relevant) the effectiveness of making the adjustment, resources available and the cost of the adjustment.

The EA prohibits institutions from discriminating against applicants and students in a number of ways including in the arrangements for making offers of admission, in the way in which education and access to benefits, facilities and services for students are provided, and in the arrangements for conferring qualifications.

The EA also applies to institutions the public sector equality duty, covering all of the protected characteristics, under which institutions must, in the exercise of their functions, have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations in relation to persons sharing a relevant protected characteristic and persons not sharing it.

In the context of student mental health, institutions will need to pay particular attention to the duties in relation to the protected characteristic of disability. The EA contains a specific definition of disability: a person has a disability if they have a physical or mental impairment, which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. Institutions will need to be mindful that, whilst they have a duty under the EA to make reasonable adjustments in respect of applicants and students with disabilities, not every mental health difficulty will be a disability qualifying for protection under the EA.

Forward planning, and a strategic approach, is required to address any barriers that may impede disabled applicants and students including in the context of student mental health.

### Human Rights Act 1998 (HRA)

The HRA gives effect to rights and freedoms guaranteed under the European Convention on Human Rights, in particular the right to life (Article 2 of the Convention), the right to respect for private and family life (Article 8, where mental health and stability is regarded as a crucial part of private life) and the prohibition of discrimination (Article 14). These provisions may be relevant when dealing with specific challenges brought by individuals against institutions in the context of student mental health but they should also be considered by institutions in the preparation of policies and procedures dealing with students with mental health difficulties.

### Data Protection Act 1998 (DPA) and Confidentiality

Information about students' mental health will inevitably be sensitive in nature and will need to be appropriately handled by institutions.

Such information is more likely to be disclosed by a student to an institution in such circumstances as to attract a duty of common law confidentiality (for example to an institution counsellor during a counselling session).

In addition, the DPA requires institutions to process (including sharing) applicants' and students' personal data fairly and lawfully. Under the DPA, information about physical or mental health or disability will constitute sensitive personal data. The DPA places additional obligations on institutions in relation to the processing of sensitive personal data.

To be fair, all data processing must be within the reasonable expectations of the individual based on the information provided to them by their institution. This information should be provided to them (in the form for example of data protection notices and policies) in writing prior to them disclosing information to the institution.

To be lawful, all processing must be justified (within the narrow justifications prescribed in the DPA). Consent of the individual to use their particular personal information in a particular way is one of the justifications contained in the DPA. However, institutions should be mindful of the fact that, whilst they can seek to secure individuals' consent to processing up front (for example on registration or enrolment) to use specific personal data for specific purposes, they can only do so lawfully in respect of non-sensitive personal data. In respect of sensitive personal data, institutions will need to obtain informed, voluntary, explicit and express consent from the individual on a stage-by-stage basis. Where (for whatever reason) consent to processing cannot be obtained, institutions will need to consider whether an alternative justification for processing exists under the DPA (for example where there is a significant risk to the health and safety of a person by reason of self-harm or suicide).

It is important that staff fully understand the implications of their institution's obligations under the DPA and any duty of confidentiality which arises. In addition, institutions should ensure that applicants' and students' expectations are managed as to the extent of the privacy which they can expect and to which they are entitled. Institutions will need to strike a balance between (on the one hand) not deterring applicants and students from seeking appropriate support and (on the other hand) not guaranteeing absolute confidentiality. Applicants and students should be provided with clear unambiguous explanations setting out the type of circumstances in which personal information (including sensitive personal data) may be lawfully disclosed by the institution in the absence (for whatever reason) of the individual's consent to disclosure.

Institutions should also keep in mind that under the DPA individuals have certain rights to access copies of their personal data held by institutions. As such, institutions should ensure when creating records that the content of those records is such that they would be happy to disclose copies of them to an individual who makes an appropriate data access request under the DPA.

Practical and legal difficulties may arise for institutions in relation to the circumstances in which information (especially sensitive personal data) may be disclosed to third parties (such as parents, external health practitioners or placement providers), in connection with which institutions may wish to take prompt legal advice.

Individuals who are dissatisfied about the way in which institutions have dealt with their personal information may complain to the Information Commissioners' Office.

## Judicial review

An applicant or student may seek judicial review of a decision by an institution (for example to decline to offer an applicant a place or to expel a student in connection with his/her mental ill-health) where the institution fails to follow its internal procedures, or acts unfairly in implementing its procedures, or acts outside its powers, or acts irrationally or arbitrarily.

In the context of judicial review, the individual would be asking the court to review the process by which the institution reached its decision rather than the merits of the decision itself. Whilst the court has power to award monetary compensation that is rarely exercised, the common outcome of a successful judicial review challenge would be for the court to quash the institution's decision and to refer the matter back to the institution to take a fresh decision.

In particular, institutions should be wary of purporting to make judgements and take decisions which can only properly be taken by appropriate medical professionals (for example in relation to the diagnosis of mental health conditions) whilst ensuring that they do not defer or delegate the decision-making which properly falls within their remit in respect of the regulation of their relationships with their students.

## Institutional policies and procedures

In order to assist in the discharge of the various legal duties described in this annexe, institutions will need to ensure that they have in place effective and robust arrangements, policies and procedures for managing students with mental health difficulties.

In addition to the arrangements described elsewhere in this Annexe, there should be arrangements for assessing the needs of disabled applicants and students and applicants and students with mental health difficulties, putting in place (as appropriate) reasonable adjustments and other support for such individuals, and directing /referring students to external support that institutions are unable to provide. There should also be mechanisms for assessing and monitoring the impact of student mental health on programme design, delivery and assessment and on student regulations generally.

Institutions should deal with concerns regarding students' mental health promptly in order to assist in discharging their legal obligations and to seek to avoid escalation of problems.

Where institutions are considering the unilateral removal of students from campus (whether on a temporary or permanent basis) who are resident in institution accommodation, careful regard should be had to the ability of the institution under the student accommodation contract to remove the student from their accommodation, in particular to seek to avoid challenge for unlawful eviction.

Institutions should work in partnership with their student bodies, unions and associations to inform students of the nature and extent of the support services which both the institution and students' union or association offer and of external sources of support available.

Institutions should take care to ensure that their policies and procedures are not invoked to take inappropriate or arbitrary action against students with mental health difficulties (for example in the context of disciplinary procedures where disciplinary action against or exclusion of a student may (depending on the facts) not only be inappropriate and ineffective but, where the mental health difficulty constitutes a disability under the Equality Act, discriminatory and thereby unlawful).

Institutions should ensure that in implementing institutional policies and procedures they not only comply with the provisions of those policies and procedures but also observe the requirements of natural justice (essentially, the requirement to act fairly) as to do otherwise could result in exposure to complaint or legal challenge (in particular for breach of contract and/or judicial review).

Institutions should consider whether amendment should be made in particular cases to normal processes by way of reasonable adjustments in accordance with the Equality Act for students with disabilities or generally in terms of support for a student with mental health difficulties. Institutions should cross-refer policies and procedures which are potentially relevant in managing students with mental health difficulties (for example admissions, discipline, fitness to practise, fitness to study, academic appeals and harassment) and provide for the ability to switch between them where appropriate to do so.

Institutions should give careful thought to establishing specific policies and procedures (such as those dealing with fitness to study) to assist them in providing support to students and in taking appropriate steps to manage the student relationship in student mental health matters including provisions (in extreme cases) for terminating the student's registration and the student contract. Such policies and procedures may also contain provisions for students to take periods of voluntary interruption from their programmes. Such policies and procedures should be drafted and promoted as positive and supportive regulations which provide institutions with a suitable alternative to student disciplinary regulations (which are traditionally more penal in nature) for dealing with student conduct concerns.

Such policies and procedures should be drafted in clear, student-friendly language and contain fair, transparent and proportionate processes for dealing with matters falling within their remit. They should contain clear descriptions of the category of matters that they are intended to cover and set out clearly the type of circumstances in which the institution would look to implement them (for example where a student's conduct arising from an actual or suspected mental health difficulty gave rise to one or more risks prescribed in the procedures such as harm to self or others or interruption of other students' learning). The policies and procedures should make clear whether their remit is restricted to risks arising from students' mental health in programme-related contexts only or whether they are referable to students' membership of the wider institution community (for example in relation to students' general social interactions on campus or in institution accommodation) even where there are no concerns about a student's academic progression or engagement. Where the remit and application of such regulations is not robustly defined, or where the regulations are implemented to deal with matters which do not comfortably fall within the prescribed remit and application, institutions may find their actions and decisions challenged for unfairness and unlawfulness.

Importantly, such policies and procedures should contain robust and transparent arrangements for carrying out relevant risk assessments and for imposing fair, proportionate and prescribed outcomes in circumstances where a student's fitness to study is determined to be impaired or where they are found to be unfit to study.

Such policies and procedures can play an important role in assisting institutions fairly and lawfully to manage student mental health matters particularly in relation to students who are reluctant or resistant to acknowledging that they have mental health difficulties. Without such policies and procedures, robustly drafted and fairly and lawfully implemented in practice, institutions may find themselves without the legal powers to take steps to deal with certain types of matters.

Such policies and procedures should also deal with arrangements and criteria for students' return to study.

It is strongly recommended that institutions seek appropriate legal advice in drawing up policies and procedures which seek to tackle the issues identified in the guidance. The work of UUK, GuildHE, AMOSSHE and other professional networks in the sector contribute to the pool of national expertise and best practice in this area.

*Eversheds LLP, January 2015*

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- to promote collaboration between the different sectors, agencies and professional groups with responsibility for mental wellbeing in higher education
- to be a reference point for government bodies, managers in the NHS and educational institutions and practitioners in respect of mental wellbeing in higher education
- to influence policy on issues related to mental wellbeing in higher education.

Further information on the Working Group is available at http://mwbhe.com/home

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