

**AllAble**



2022 Update:

# **Accessibility in Further Education (FE)**

Blind and partially sighted student access to information in further education.

Report delivered by All Able Ltd on behalf of Thomas Pocklington Trust

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# Contents

<b>Headlines</b>	<b>3</b>
<b>2021 results</b>	<b>4</b>
<b>Actions we took</b>	<b>5</b>
<b>2022 update aims</b>	<b>6</b>
Testing accessibility of websites	6
<b>Findings</b>	<b>7</b>
Accessibility statements review	7
Disproportionate burden	10
Full compliance claims	12
Overlay products	12
<b>Discussion</b>	<b>13</b>
<b>Recommendations</b>	<b>14</b>
2022 additional recommendations	15
<b>Further resources</b>	<b>16</b>
2022 SEND funding update	16
<b>References</b>	<b>18</b>
<b>The research team</b>	<b>20</b>

# Headlines

This is an update to the to the **Technology and Accessibility in Further Education (FE)** report. Our findings reveal promising growth in maturity across the UK FE sector when it comes to accessibility compliance and support for disabled students.

- 1 in 4 colleges have a Good or Compliant statement. A 7.72% increase since the initial research findings (up to 24.45%)
- Drop in poor quality and no statements - 63.18% (down 11.82% since 2021)
- Moving into a new band of maturity where we see an increase in disproportionate burden claims in line with tracked maturity growth in other sectors
- SEND colleges are significantly behind sector average on accessibility statement compliance. Two Good or Compliant statements out of 116 colleges (1.72%)
- No college making a 'fully' compliant claim could be substantiated, with every website showing between 2 and 75 errors on a single page
- New and emerging risks for colleges trying to improve accessibility in the form of questionable 'overlay' products
- Increased risk of imminent and regulation monitoring action, and as time goes on, reduced leniency for those still not evidencing progress
- The '**Technology and Accessibility in Further Education (FE) report 2021**' has had a direct impact through collaboration with the Association of Colleges. The report appeared on national radio and was referenced as a primary source in the Lord Holmes DSA paper to the House of Lords.

“Last year the Equality, Diversity, and Inclusivity (EDI) Committee reviewed and shared a report in FE Week '**Colleges fail legal requirements to inform visually impaired**' (feweek.co.uk)... As a result, 'we acknowledged that our website accessibility was not sufficient and even though we are building a new website to launch next year (fully compliant), we refused to wait and made a number of other changes on the back of the report'.”

**FE College Marketing Director**

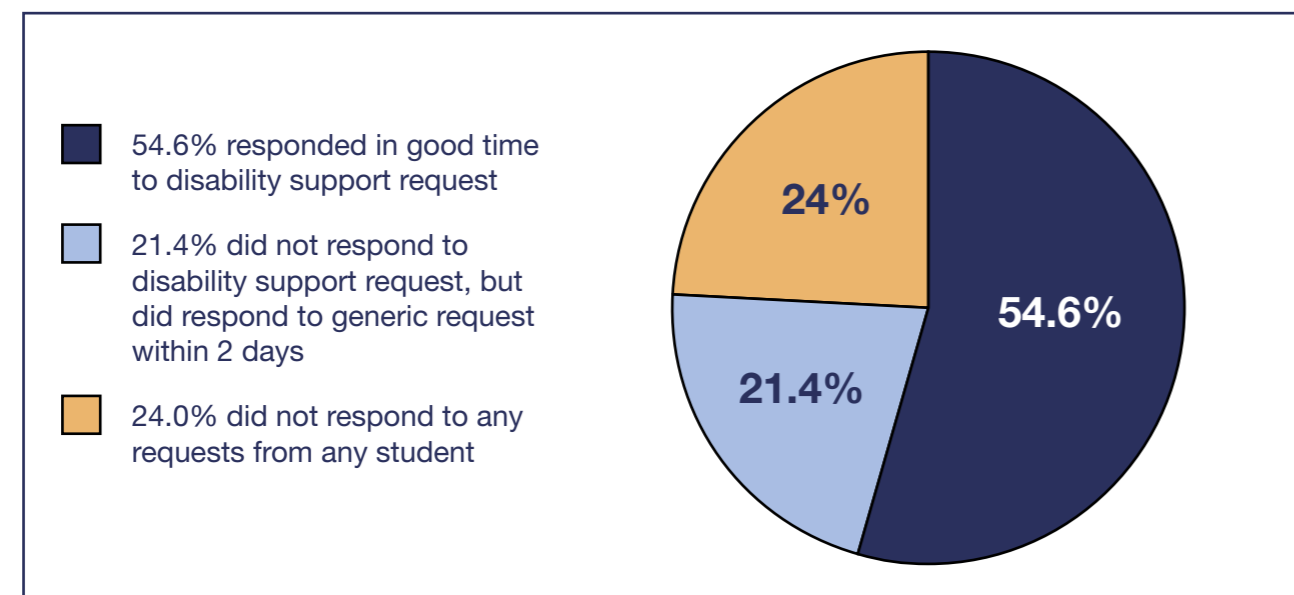
# 2021 results

In November 2021, Thomas Pocklington Trust and All Able released the first **Technology and Accessibility in Further Education (FE)** report which showed FE colleges across the UK are significantly behind other sectors in meeting their legal obligations for the accessibility of their digital systems. Only 13% of colleges had good or compliant legally required evidence of accessibility compliance, compared to half of local government (53%) and universities (49%).

The 2021 report also found concerning results when it came to information availability for prospective blind and partially sighted students. Almost half (45.4%) of responding colleges could not answer simple disability related queries via their core contact or marketing routes or were unable to direct to appropriate support staff.

The outcomes of the 2021 research included several practical recommendations for college staff to improve identified accessibility failings as well as a suite of **Making College Accessible resources** published to support those changes.

College respondents to persona requests 2021



# Actions we took

What has happened since last year;

- **Making college accessible guidance on TPT site**
- **The report was discussed on Radio 4's In Touch programme**
- **It featured in Further Education (FE) Week**
- **Mentioned in the report into the Disabled Students' Allowance (Lord Holmes report to the House of Lords)**
- **Working with Association of Colleges (AoC) to promote recommendations:**
  - **Hosted popular recorded webinar for college leaders in January**
  - **Hosted TPT at regional and AoC national SEND forums for principals and college SEND leaders**
  - **Planned forthcoming session at the AoC National Conference November 2022**
  - **Publicised through AoC networks both the report itself and ways of getting support to become compliant.**

Since the release of the 2021 FE research report there has been growing engagement and focus on the FE sector with the research coming out to high acclaim.

The research was discussed on national radio and has been cited in further important papers to the House of Lords as part of Lord Holmes review of the Disabled Students' Allowance, and by Disabled Students UK in their advice to all education institutions on supporting disabled students in a post Covid learning environment.

There have been some very positive local interventions including a college that has convened an Equality, Diversity and Inclusivity Committee (EDI). We have also received feedback from other colleges on similar activities.

FE week published an article '**Colleges fail legal requirement to inform visually impaired**' (feweek.co.uk). This led a college to review their digital estate and conclude that their website accessibility was not sufficient. Despite building a new website to launch next year, which they are aiming to make fully compliant, the college has refused to wait and has made several changes on the back of the report, resulting in huge improvements to the accessibility of their current website.

We must thank the Association of Colleges (AoC) for their support in helping to promote this activity over the past 12 months and for their contributions to this update.

## 2022 update aims

In the 2022 update we wanted to measure how the FE sector is developing accessibility maturity in a sustainable way. Building accessibility maturity means increasing awareness, improving compliance, and offering a more consistent level of accessibility across content.

Considering the distance travelled in the past year enables a collective review of FE sector accessibility maturity to identify where there are still gaps in provision and any new and emerging challenges that may need additional guidance.

We have widened the scope of colleges being reviewed and now include further Special Educational Needs and Disabilities (SEND) colleges. This will enable ongoing performance measurement of these colleges in future.

### Testing accessibility of websites

All public sector providers are legally required to have an accessibility statement on their website. The statement should set out how accessible their websites are, what they are doing to make their websites accessible and provide a route for any complaints or issues to be raised.

Having an accessible website for students is vital as it allows prospective and current students to access information about the college and indicates an awareness that the college realises the importance of accessibility. We check accessibility statement compliance, graded as: compliant, good, partial, poor or no statement (against the [All Able Ltd accessibility statement grading methodology](#)), to assess the extent they are meeting the 2018 regulations.

## Findings

### Accessibility statements review

In the 2021 research, we looked at the accessibility statements compliance of 424 FE colleges. This produced interesting findings for FE in comparison to other public sectors and continued our charting of accessibility statement growth across colleges since 2019. In the 2022 update we expanded that selection to incorporate an additional 92 SEND colleges.

#### Mainstream FE Colleges

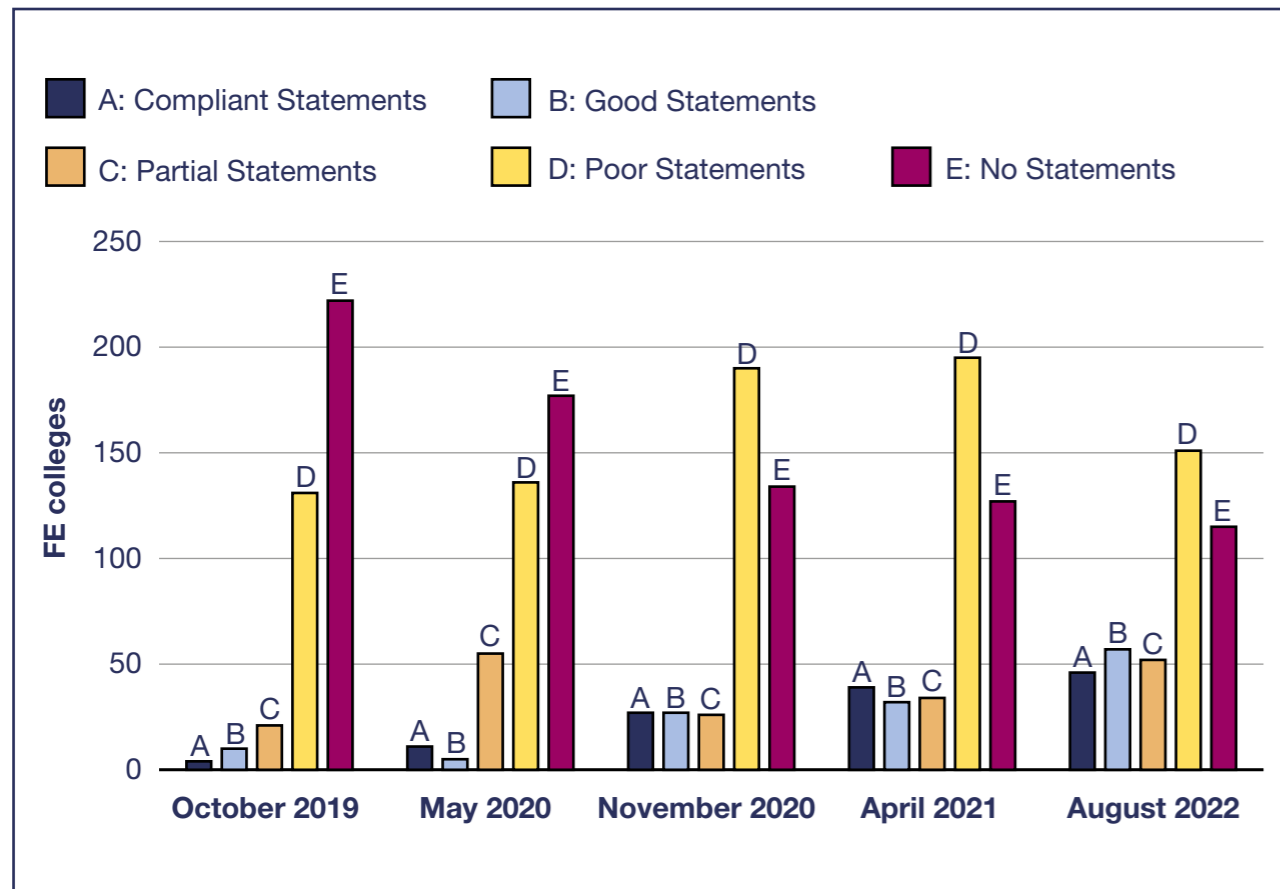
Key bullet points of findings;

- **Growth in good and compliant statements - 24.45% (up 7.72% since 2021)**
- **Drop in poor quality and no statements - 63.18% (down 11.82% since 2021)**
- **Growth in disproportionate burden claims - 10.21% (up 2.9% since 2021)**
- **Growth in claims of full compliance - 4.75% (up 2.16% since 2021).**

NOTE: For comparison between 2022 and previous years, figures are for a consistent list which excludes colleges newly added this year. New college figures examined separately.



## FE Statements growth October 2019 - August 2022



### SEND colleges

Our update includes an additional 92 SEND colleges (special post 16 institutions (SPIs)), this is in addition to the SEND colleges have been included in previous years.

For 2022 newly added 92 SEND colleges;

- **No compliant or good statements**
- **9.78% poor quality statements**
- **86.96% no accessibility statements.**

For 116 SEND colleges overall;

- **3.45% compliant and good statements**
- **14.66% poor quality statements**
- **78.45% no accessibility statements.**

### Accessibility statements summary

The 2022 update results show positive trends in good and compliant statements and a drop in poor quality or no statements across the board. This has been a notable change, which represents action on the part of dozens of colleges following the initial 2021 report, making changes to better support disabled students and meet their legal obligations.

Despite these positive trends there is still room for growth across FE colleges, with comparative compliance figures still behind those of other sectors (such as local government or universities) even when compared with 2020 data.

It is particularly disappointing that SEND colleges, whose focus is on supporting people with disabilities, are significantly behind the rest of the sector with only 4 SEND colleges having a good or compliant statement and fewer than 15% with any kind of accessibility statement at all.

There has also been an increase in disproportionate burden claims, which represents a move into a new level of maturity, following similar “juvenescence of compliance” seen in other sectors (such as local government or universities).



## Disproportionate burden

Disproportionate burden is a clause in the public sector accessibility regulations that allows organisations to avoid full compliance without penalty, though not indefinitely. The organisation must prove that to achieve compliance would be a 'disproportionate burden'.

To do this they must thoroughly evidence that compliance would;

- **Incur costs greater than the organisation has funds for**
- **Not significantly impact disabled users**
- **Be wasted effort if new products are to supersede current platforms.**

Because of the complexity of the regulations and the relative early stages of maturity across the FE sector, we have seen a growth in disproportionate burden claims. Many of which do not meet the standards for evidence, or are accurate, appropriate, and relevant claim subjects.

FE disproportionate burden claims are up 2.9% since 2021 (now at 10.21%) with some claims being duplicated across conglomerates.

We have identified 32 individual disproportionate burden claims which fall into the following categories;

- **Copied example text - 13**
- **Claiming for exemptions - 3**
- **Claims against Government monitoring body advice - 2**
- **No information on claim - 2**
- **Possibly appropriate claims - 12.**

Based on these classifications from previous experience;

- **Those that have copied example wording from the government sample lacklustre attempts to provide an accurate legal document**
- **Those that claim for other exemptions show a lack of understanding about regulation scope, having claimed disproportionate burden unnecessarily**
- **Those that claim against the advice of the monitoring body are normally claiming that it would be too much work to do anything to meet legal obligations. This again demonstrates a significant lack of understanding and puts organisations at risk when they ignore enforcement advice.**

To further verify these claims and any evidence to support them we submitted freedom of information (FOI) requests to each of the 32 claimants. The responses were as follows;

- **15 colleges did not respond and two declined to provide evidence, using their FOI exempt status as charities to avoid providing legally required evidence**
- **A further six colleges said that they either did not hold the legally required evidence to support their claims, failed to provide any evidence or showed willingness to rectify the situation**
- **One did not know what they made a claim for and had to ask their 3<sup>rd</sup> party website creator what it was in reference to. All claims can only be made by a public sector body, no 3<sup>rd</sup> party supplier can make that decision so this represents an abdication of responsibility**
- **Four colleges acknowledged that the information was not correct or out of date and have updated their accessibility statements**
- **Three colleges gave some useful level of information. If not comprehensive, at least a summary to explain the reason for the claim and some costs or impacting factors**
- **One college conflated the costs of fixing website accessibility issues on the grounds that it would require redesign of the logo and procurement of updated branded stationary. Technical requirements do make exemptions around logo designs so redevelopment may not be necessary. Claims should be focussed on the issue at hand.**

While in specific cases, there has been a misunderstanding of the clause and legal obligations for evidence, we propose that the FE sector is entering a phase of maturity. One where awareness is now higher, but expertise still needs to be developed.

This has been seen before, in other sectors that have been ahead of FE in terms of compliance maturity. In 2020 Local Government and Universities went through a similar growth spurt, identified by this same behaviour. As an outcome guidance on common mistakes when claiming disproportionate burden and how to avoid them has been developed.

The Government Digital Service (GDS) (the regulation monitoring body), has provided guidance on the types of evidence expected to support a disproportionate burden claim and what NOT to claim for.

Given the focus on other areas of the public sector, it is incredibly positive that FE colleges have reached this far.

As an outcome of this research, further FE specific guidance on how to claim disproportionate burden with appropriate supporting evidence has been added to the Making College Accessible resource area.

## Full compliance claims

Within an accessibility statement, organisations identify how compliant their website is with the technical standards set out by the regulations. Organisation websites and mobile apps are expected to meet the [Web Content Accessibility Guidelines \(WCAG\) 2.1](#), to all A and AA success criteria.

Organisations can claim to be ‘fully’, ‘partially’, or ‘not’ compliant. ‘Fully’ compliant means that the website or mobile app has no technical failures under the regulations.

In the 2022 update we identified a 2.16% increase in ‘fully’ compliant claims (up to 4.75%). For any complex website, the chances of there being no accessibility issues, in our expert view impossible or unlikely.

To test the basic assumption of these ‘fully’ compliant websites, we reviewed the home pages of each using the [axe accessibility checker](#) which is the same tool used by the regulation monitoring body.

We found that 90% of college websites claiming full compliance, were not. There ranged from 2 to 75 identified issues on a single page. We are concerned that basic automated checks, which are freely available, were not conducted. There are [guides to help people get started with using tools](#).

The remaining 10% did not have issues identified by automated testing. However, they failed on manual examination, on things such as focus indication and magnification / reflow adaptability. The result of this subsequent testing shows that not a single ‘fully’ compliant claim could be substantiated.

## Overlay products

Of related concern is the growing use of ‘overlay’ products, not just in the FE sector but everywhere and it must be flagged as a risk to those looking for “easy” routes to compliance.

Overlays are products marketed to improve or fix accessibility issues on a website, by adding a small snippet of code, or a button to your web pages which will “fix” the user experience. Some of these products market themselves as using artificial intelligence while others advertise user customisability. We are concerned that colleges are a vulnerable sector to such offers.

We advise that colleges do not pay for or utilise overlay products in any circumstances for the following reasons:

- 1. The UK regulation monitoring body states that overlays are not considered when monitoring for compliance. Therefore, any spend on an overlay product will not help to meet compliance requirements.**
- 2. Overlays often do not fix accessibility issues, or provide the service advertised. There has been a concerted effort across the accessibility sector to call out the false advertising of these products.**
- 3. In recent conferences, representatives from the US Department of Justice has referred to the use of overlays for compliance as “legal suicide”, which is very strong language to represent multiple cases of these overlays now in legal disputes because of false compliance claims they made to customers.**

There is no alternative to an accessible by design website that you have developed in the correct way.

## Discussion

The results this year are a mix of positive steps forward, with some new and continuing challenges.

The ongoing improvements by FE colleges as a sector in a move towards compliance and increased accessibility maturity is encouraging. This is in no small part due to the actions of many hard working SEND and Additional Learning Support (ALS) teams and other college staff across the sector.

This continued upward trajectory in maturity as well as technical improvements to services is vital to the ongoing betterment of blind and partially sighted student experience, as well as the experiences of all disabled students.

It is important to note that this is a journey, there is no ‘perfection’ or ‘complete failure’. The gradual improvements seen from organisations across the sector is the correct kind of sustainable behaviour.

We think that now is not the time to slacken in legal compliance activity and technical improvements. In December 2021, shortly after the release of the initial research findings, the Government Digital Service (GDS) who monitor the regulations released a [report summarising regulation monitoring activity](#) over the preceding 22 months. In this they showed enhanced pressure on organisations claiming disproportionate burden, and those that have not already taken action to move towards compliance.

As the FE sector enters a new level of maturity, the results we have found regarding disproportionate burden put colleges at an increased risk if we cannot improve the understanding and use of disproportionate burden claims, as well as continuing to improve compliance in general.

The regulations came into force on September 23<sup>rd</sup>, 2018, with the grace period ending in 2020. FE colleges have now had four years to take some action, with many still not having done so. The concern is that further leniency will not be forthcoming for those that have already had 1486 days (at time of writing) to take even basic action and have not demonstrated any effort to meet legal responsibilities.

Based on community sharing, we know that GDS has in the past taken a sector by sector focussed approach to monitoring. The focus to date has been on central and local government, and more recently on higher education institutes. While there is nothing to suggest that FE colleges are immediately upcoming, it can be reasonably expected that they will inevitably receive significant government scrutiny.

Coupled with heightened monitoring pressure, there are also more traps and pitfalls than ever for smaller organisations such as FE colleges trying to navigate growing accessibility maturity. Many predatory organisations are publicising their products as panacea solutions to digital accessibility, such as overlays which promise to meet every accessibility standard across the planet with little effort required. As a community, we must all strive to raise awareness of these and other risks, and to support each other by sharing good practice and support so we can all offer a more inclusive learning environment.

# Recommendations

We still stand by the recommendations of the 2021 research. While there has been noticeable progress made by the sector, many organisations still have core milestones to reach. We continue to suggest the following recommendations:

**1. Urgent action is required to improve legal compliance with accessibility regulations across the FE sector for digital systems and learning resources.**

The UK Government must target existing guidance at college leadership level, so that they are clear of their digital accessibility legal requirements and the broader benefits of investment in this area towards an inclusive education for all. If this is not addressed, colleges are leaving themselves open to significant legal risk and failing to provide the bare minimum for students.

**2. College leadership should deliver an accessible-by-design approach in FE colleges.**

College leadership, with the support of the UK Government, should urgently put resources into improving compliance with the regulatory framework and remove barriers so that mainstream assistive technologies have maximum impact for all students (particularly students with disabilities and additional access needs).



**3. FE colleges must effectively resource and support SEND/ALS teams to encourage organisational adoption of more inclusive mainstream accessibility practices.**

This includes being able to use procurement to ensure third party suppliers deliver accessible software, systems, and services to support colleges in meeting accessibility obligations.

**4. FE colleges must ensure access to Assistive Technologies (AT) and effective training for blind and partially sighted students in FE.**

It cannot be assumed that all blind and partially sighted students in FE are fully confident in the use of assistive technologies. They should be supported throughout their time in FE to develop skills and confidence in the use of assistive technologies and alternative format techniques, as well as being encouraged to self-advocate to represent their needs to college staff to ensure that they are met.

Awareness for this recommendation is being spread through activity such as the '**Access and Assistance for All**' campaign by the British Youth Council (BYC) who are promoting awareness and use of assistive technologies.

**5. FE colleges should embed accessibility training for all students in FE colleges as a core employability skill.**

This provides the additional benefit that non-disabled students on the same modules as blind and partially sighted students will better understand their requirements to further support inclusion in group work and presentations.

## 2022 additional recommendations

**FE Colleges should continue to utilise available resources to help the education sector improve accessibility.**

There are many resources out there to support education institutes in meeting their accessibility obligations such as the Thomas Pocklington Trust Making College Accessible resources or the [MakeThingsAccessible.com](https://www.makethingsaccessible.com) collaborative project by central London universities as a growing repository of digital accessibility resources.

**Government and college membership organisations must target messaging at key issues;**

- **Target messaging at SEND colleges as a priority given their focus on disabled students and lower compliance figures compared to mainstream colleges**
- **Target seminars and awareness raising on new maturity level topics such as the correct use of disproportionate burden claims**
- **Target messaging to warn of 'overlay' products and other similar predatory offers within the market.**



# Further resources

## 2022 SEND funding update

SEND funding in colleges in England is a mosaic of different streams.

For young people whose needs cost over £6000 a year to meet, colleges rely on negotiations with local authorities for 'High Needs funding'. The regulations and relationships underpinning these negotiations are part of the scope of the **SEND and Alternative Provision green paper**. This paper published in March 2022 set out the creation of "national standards" which aim to reduce the current variation between how local authorities operate.

There is no separate funding pot for young people with SEND that are not assessed as having high needs. Colleges rely on what is called 'Disadvantage Funding', but this also supports other needs, including those arising from economic deprivation. **Research by AoC** has shown that this produces much less per student than the comparable mechanism in schools. It is distributed to colleges by an algorithm that does not match the numbers of students with SEND. Unfortunately, many blind and partially sighted students fall into this group, and it is a challenge for colleges to fund their needs. AoC is calling for parity with school funding for these students.

The funding mechanism for providing learning support to adult learners, is under **consultation** at time of publication.

Providing education for students with SEND is a central part of the mission of colleges. In colleges 17% of adult students and 26% of 16–18-year-olds have SEND (source: **AoC College Key Facts**). But matching students' needs with such meagre funding streams is a constant struggle.

For more information on changes to regulations surrounding SEND funding please refer to Department for Education (DfE) guidance on SEND funding, and for further information and support, speak with college member organisations such as the AoC or the National Association of Specialist Colleges (NATSPEC).



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# The research team

## AllAble



### All Able Ltd

All Able is a consulting company committed to using our expertise to help public sector organisations remove barriers and deliver accessible and inclusive services that work for everyone. We believe that everyone should have equal opportunity to utilise public services, get an education, and engage with their communities to live an enjoyable and independent life.

Web: [www.allable.co.uk](http://www.allable.co.uk)

Twitter: [@All\\_Able](https://twitter.com/All_Able)

LinkedIn: [@all-able-ltd](https://www.linkedin.com/company/all-able-ltd)

### Thomas Pocklington Trust (TPT)

Thomas Pocklington Trust is a national charity dedicated to enabling and empowering blind and partially sighted people of all ages to live the life they want to lead. We are committed to increasing awareness and understanding of their needs and aspirations, to working with partners and to developing and implementing services which meet these needs to increase independence and improve lives.

Web: [www.pocklington-trust.org.uk](http://www.pocklington-trust.org.uk)

Facebook: [@thomaspocklingtontrust](https://www.facebook.com/thomaspocklingtontrust)

Twitter: [@TPTgeneral](https://twitter.com/TPTgeneral)

LinkedIn: [@pocklington-trust](https://www.linkedin.com/company/pocklington-trust)