



New Redland  
Frenchay Campus  
Coldharbour Lane  
Bristol, BS16 1QU  
United Kingdom  
Tel: +44 117 344 4007  
Fax +44 117 344 4005

## Comments from the Centre for Studies on Inclusive Education to the Joint Committee on the Draft Disability Discrimination Bill

Our comments concern two additional areas we recommend the bill should cover connected with education:

- 1 taking steps under the DDA towards a stronger legal framework for developing inclusive education and ending segregation;
- 2 extending the provisions of the DDA to cover examining bodies.

### **1 Taking steps under the DDA towards a stronger legal framework for developing inclusive education and ending segregation**

Despite progress in the last 20 years towards more inclusive education, segregation persists as institutional discrimination.

The fundamental human right to inclusion of many thousands of children and young people in the UK is routinely violated by placement in separate special schools and pupil referral units. Access to mainstream, although greatly improved, is still in jeopardy if parents are against it or if a pupil's 'special educational needs' can not be prevented from adversely affecting others.

The overall goal of the Centre for Studies on Inclusive Education CSIE is the phasing out of segregated educational settings and the development of a restructured, inclusive mainstream system capable of providing appropriate support for all pupils in their local areas. This would involve reform of both disability discrimination and education law to:

- make appropriate support for learning a legal entitlement for all students in local mainstream schools
- remove the remaining constraints on access to the mainstream
- remove LEA powers to run separate, special schools

While the Centre welcomes the important moves in the draft Disability Discrimination Bill towards basic rights for disabled people which will enhance their life opportunities we regret that the discrimination inherent in separate special schooling for disabled pupils and perpetuated by them is not covered by the draft Bill.

It is our view, based on evidence, that segregated 'special' schooling is not only itself discriminatory under human rights principles but perpetuates discrimination, devaluation, stigmatization, stereotyping, prejudice and isolation - the very conditions which disabled adults identify as among the biggest barriers to respect, participation and a full life. This discrimination is maintained even though there is no compelling body of evidence that segregated 'special' education programmes have significant benefits for students. (Please see separate files for further background material: *The Human Rights Approach, The Case Against Segregation in Special Schools, Reasons Against Segregated Schooling, and Reference List for Reasons Against Segregated Schooling*).

It is CSIE's recommendation that the draft bill should take steps towards removal of the final legal barriers to mainstream schooling and the phasing out of separate special schools by 2020 as part of its measures against disability discrimination. Disability discrimination law should also play a part in ensuring that appropriate mainstream education is guaranteed by law for all pupils within their local areas without resort to current assessment and 'statementing' procedures to obtain necessary support. In our view these assessment and 'statementing' procedures are based on an outdated medical view of disability as individual defect which is a barrier to inclusion. Inclusion in local mainstream schools with appropriate support needs to become a matter of routine entitlement for all pupils not subject to stressful – and we would argue stigmatizing and discriminatory - procedures for some.

The Disability Rights Commission has set out a short-term and reducing role for special schools and called for their ongoing evaluation in relation to development towards a more inclusive mainstream education service. The Government has also acknowledged that their current ten year strategy for special educational needs, which proposes retaining separate 'special' schooling for disabled pupils with serious and complex needs, may be open to review in the light of mainstream development.

Moves towards reforming disability discrimination law and education law to a framework as outlined in our evidence to the joint committee would, in our view, have three main advantages:

- It would provide considerable incentive for mainstream schools to move ahead with making themselves fully accessible to all

- It would allow for the transfer of existing resources from 'special' to mainstream settings and target the vast majority of new investment into the mainstream
- It would guard against possible 'dumping' of disabled pupils in mainstream without appropriate support, while avoiding stressful, stigmatizing and discriminatory 'statementing' procedures.

If such reforms are not made we are concerned that the commitment and creativity of mainstream schools to fulfill their human rights responsibilities and include the full diversity of pupils will be weakened and they will find it easier to turn to separate 'special' schools to handle learning situations they perceive as difficult.

## **2 Extending the provisions of the DDA to cover examining bodies**

The Disability Rights Commission has made a convincing argument that failure to include examination bodies in the scope of the DDA leaves a substantial gap in the legislation, puts disabled students at an unfair disadvantage and prevents them from progressing into their chosen area of work or study.

CSIE's own experience and contact with students supports the DDA's evidence that some disabled students have difficulties in getting their needs met in examinations and are unable to turn to the law for redress. We consider current voluntary arrangements for adjustments for disabled students as regulated by the Joint Council for General Qualifications Bodies and the Scottish Qualifications Authority are inadequate in practice for safeguarding the rights of disabled students and strongly recommend that the draft bill should set out provisions for bringing examination bodies within scope of discrimination legislation.

***CSIE, February 2004.***