



CSIE response to the 2008 Secretary of State report on progress towards disability equality across the children's and education sector.

CSIE welcomes the publication of this report and the open invitation to respond. Our comments are presented below.

CSIE is encouraged to note that the Department has adopted the social model of disability and has listened to the views of disabled adults and disabled children. We note, however, that neither here nor in *Every Child Matters* is the aim of “inclusion in society” for disabled children made specific to schools. If the principle is, as the Report puts it, that “the poverty, isolation, disadvantage and social exclusion experienced by many disabled people are not the result of their impairments or medical conditions but rather stem from attitudinal, organisational, and environmental barriers,” then the continuing existence of separate schools consisting only of disabled children is the most obvious of those barriers. As the Report itself says, “The most important single set of leaders is disabled people, and especially disabled children and young people, and their families. On the principle of nothing about us without us, it is their priorities, and their perceptions of successes and gaps, that must lead.” The Report cites as its “relevant partners” under this heading Equality 2025, Disability Equality in Education, the Alliance for Inclusive Education and HEYA, but omits to mention the baseline principle of every one of these organisations, which is for inclusive schools and the social relationships available in them as a basic human right of all children.

In Chapter 1, the Report refers to the Disability Equality Duty as having already made a positive impact and refers to the benefits of “inclusive play facilities or a richer curriculum.” Such a choice of phrase can take a reader by surprise, as it suddenly veers away from the expected “inclusive play facilities and inclusive schools”. CSIE wishes to question the absence of “inclusive schools” from this and similar phrases in what may be seen as a deliberate omission. The government, in working towards the Single Equality Bill, has already committed to end disability discrimination. Furthermore, the Department for Children, Schools and Families (DCSF) in its own Workbook on Equality Impact Assessments (EQUIA) has a strategic objective to remove current inequalities and barriers: “Policies and programmes should take opportunities to maximise positive impacts by addressing, reducing and removing inequalities and barriers that already exist between disabled and non-disabled people (...).” There could hardly be a more obvious example of the existence of such barriers than the absence of the due and proportionate number of disabled children (particularly those with significant disabilities such as SLD) in the school they would have gone to if they had not been disabled, and their segregation according to their disability into separate schools, often some distance from their home.

Where the Report does deal with the EQUIA duty to equality and inclusion, in the Policy Sector Template, it subsumes the duty of inclusion under that of “buildings design for access and inclusion”. However, this is to reduce a rights issue to an accommodation issue. The young people consulted said precisely the opposite (and this too is quoted in the Report): that “inclusion is a rights issue, not an accommodation issue”. The same template refers once again to “inclusive play” but not to inclusive schools.

The policy informing this Report therefore does not meet the requirements of the Single Equality Bill nor of the Department's own EQUIA. Inasmuch as there are hints in the Report at an awareness of these shortcomings, we trust that the Department's next step will be a strategy for dealing with them.

At the launch event for the Report, the Minister said (in reply to a question from the floor) that the government welcomed moves towards inclusive education and regarded it as a desirable goal, but that even if there comes a time when every school in the country was inclusive and provided a welcome for every child, there would still be a justifiable need for segregated schools because certain parents would always demand it. Inclusion, in short, is a matter of parental choice.

“In short”, but in fact this is a complex position to hold. On the one hand it is encouraging to note that the Minister regards inclusive education for all children as a desirable goal. It is also encouraging to note that the government is committed to providing educational placements consistent with parental wishes. At the moment, most parents who choose a mainstream place for their disabled child often find the door closed to them, at least initially. The medical profession and local children’s services routinely direct parents to segregated schools with no suggestion of any alternative. When parents state a choice of mainstream provision, schools often feel unable to admit a disabled learner; they declare that they cannot meet a child’s needs and, invariably, the local authority approaches another mainstream school or, eventually, a segregating institution. Recent research from the University of Bolton suggests single figures for the number of local authorities in the whole country which currently offer all parents a mainstream school place whatever the type or level of their child’s disability – an offer which in these places parents almost invariably favour. CSIE looks forward to the development of a government strategy and political leadership that will enable all other local authority children’s services in the country to arrive at this position as soon as possible. We ourselves are developing materials and guidance in this area for schools, parents and local authorities and will be happy to support wide use of these.

On the other hand, according to the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities, the rights in question do not belong to the parents. The right to an inclusive education is the child’s. It is the government’s job to guard this right and to provide leadership in planning capacity to uphold it. Neither Convention agrees that parents’ rights should be paramount; moreover, the UN Committee on the Rights of the Child recently criticised the UK government for its slow progress towards establishing inclusive education.

The Report also omits to deal in this respect with the duty to promote community cohesion. The Education and Inspections Act 2006 introduced a statutory duty on all maintained schools in England to promote community cohesion. Segregation prevents disabled young people from becoming part of, and from making a contribution to, their local community. The assumption has to be that their contribution is equal to anyone else’s. One of the corollaries to the absence of certain children from their local school is the opposite assumption: that their disability means they have no community contribution to make. This suggests not a social but a medical (deficit) model of disability.

Chapter 3 discusses bullying. Encouragingly, the Minister is quoted as saying: “It’s unacceptable that disabled young people should face an uphill struggle to fit in just because of their learning need or disability.” However, this is premised on events that take place once the child has arrived in school, begging the question of how certain children are not in that school in the first place. Schools defining themselves as responsible to their local community will research those disabled children living in the area who are not on roll, and will take the necessary proactive steps to enable them to join the school by offering a place and making them and their families feel welcome there. This will improve the experience of disabled children already in the school, and should be contained in the guidance given to schools on their obligations under the Disability Equality Duty, together with advice and modelling. In this chapter, we note the omission of statistics which show that bullying of disabled children is as prevalent in segregated schools as in mainstream ones, or of research that demonstrates even worse outcomes for pupils of special schools. “A notable emergent theme from the study was the high incidence of ‘bullying’ that was experienced. Though experienced in both

settings, those in special schools experienced far more ‘bullying’ from children in other mainstream schools and from peers and outsiders in their neighbourhood.”¹

In Chapter 5, where the issue is play and leisure rather than classrooms, the word “inclusion” gets to be mentioned several times. It also says that “7 out of 10 children or young people with a disability were made to feel uncomfortable at their local leisure services.” It would clearly be less likely that this would still be the case if they went with a group of friends from a mainstream school. This same section quotes the “parent of a disabled child” as follows: “I’d like to see activities where disabled and non-disabled children can play together without the disability being an issue so she can be one of the gang and forge new friendships.” Again, we would like to see this kind of opinion, which takes the benefits of inclusion for granted, cited under “schools” as well as “play”.

In Chapter 7, the Report recommends that PSHE programmes “include issues such as stereotyping”, and that “pupils are taught to challenge discrimination assertively and to work co-operatively with people who are different from themselves.” Of course the likely success of such programmes would correlate directly with the numbers of children already in the school who are liable to stereotyping and discrimination. There is moreover at present an inverse correlation between the *numbers* of such children in a mainstream school and the *degree* of their disability. In other words, the more disabled a child is perceived to be, the less likely are the chances that he or she will be in the school and thereby visible to non-disabled peers. Thus a vicious circle exists, and the above recommendation will be entirely ineffective as long as segregation continues to be seen as acceptable practice.

With regard to Appendix C, the Report mentions the Department’s intention not to agree to ratification of Article 24 of the UN Convention on the Rights of Persons with Disabilities without making reservations or interpretive declarations. In the view of CSIE, neither is necessary. All disabled adults’ organisations tell us from experience that segregated education leads to marginalised adult lives. The Convention allows for the principle of progressive realisation, which could apply to inclusion. CSIE would question the following paragraph in particular: “We wish to continue to enable local authorities to take parental wishes into account, when determining school placements for children with statements of special educational need, and special schools remain an important part of local authorities’ inclusive range of educational provision for disabled children.” Firstly, the premise is false: our evidence is that local authorities *do not*, in the majority of cases, take parental wishes into account when their wishes are for mainstream when the child has learning difficulties classified as “severe” or “profound and multiple”. Secondly, the statement that special schools form part of the “inclusive range” of the “general education system”, if intended to stand as an interpretive declaration, will not hold water at the UN. An “interpretation” which relies on changing the meaning of a word (in this case, “inclusive”) would be regarded not as an interpretation but a reservation. And if so, it will contradict the general principle enshrined in the Convention and will lay the UK open to challenge not only from disabled people’s organisations worldwide but from other member nations which have ratified the Convention unconditionally. It transparently contradicts the general principle because the minutes of the seventh and eighth sessions of the Ad Hoc Committee which drafted Article 24 clearly show that the option of preserving separate special schools was raised by certain countries but does not appear in the final text, and was in fact removed after negotiation. This demonstrates better than anything the meanings of the words “inclusion” and “general education system” in the Article, and they are not compatible with the way in which the department is seeking to interpret them.

¹ Norwich, B., & Kelly, N. (2004). Pupils’ views on inclusion: moderate learning difficulties and bullying in mainstream and special schools. *British Educational Research Journal*, 30(1), 43-65.