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**Alliance for Inclusive Education’s response to the Department for Education’s High Needs funding reform - stage 2 consultation (22nd March 2017)**

The Department for Education has consulted on refining the High Needs funding formula that will be used to distribute funding for children with special education needs. Whilst the consultation focused on the High Needs formula we felt this was a good opportunity to highlight the negative impact of the government’s shocking cuts upon disabled pupils’ access to mainstream education, and the false economy of the state spending huge sums of money per pupil for a special school placement whilst starving the mainstream school system of the necessary support that disabled pupils need to thrive.

**Question 7**

*Do you have any suggestions about the level of flexibility we should allow between schools and high needs budgets in 2019-20 and beyond?*

Yes, we believe that LAs and schools should have flexibility about how the high needs budget can be used to maximise inclusive education practice across all individual schools. We understand the government have agreed to allow LAs and school committees to retain full flexibility in allocating the delegated school and high needs budgets.

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| **Question 8** *Are there further considerations we should be taking into account about the proposed high needs national funding formula?*  |

In our response to this consultation we would like to state that we welcome the extra cash injection into SEND and we had hoped the government would use it in a manner that was compliant with their obligations under Article 24 of the UNCRPD and the presumption of mainstream education. However we have concerns about some of the suggested guidance.

Whilst the high needs consultation mainly focused on refining the high needs funding formula to improve allocation of funding for Disabled pupils with SEN, we are concerned that the government’s overall education funding policy will adversely affect the development of an inclusive education system. We believe that an improved funding formula will have a notional benefit for both schools and individual pupils unless changes to the funding of education and Disabled pupils with SEN since the Academies Act 2010 are reviewed as a matter of course.

The withdrawal of the Inclusive Schooling Guidance and the subsequent loss of the Local Authority coordination role, backed by resources to promote and champion inclusive education practice across all their mainstream schools, has resulted in schools being unable to support many disabled pupils with SEN. ALLFIE believes that the funding of Disabled pupils with SEN needs an overhaul as a matter of urgency, to ensure that all schools have the resources and are incentivised to take their fair share of Disabled pupils with SEN in their local communities.

The Children and Families Act (2014) and the Equality Act 2010 are based on a ‘presumption of mainstream education’ principle for disabled pupils and students. Article 24 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) clearly states that governments must develop an inclusive education system. ALLFIE believes that the proposed policy of funding more segregated education provision violates disabled students’ human right to inclusive education, despite the government’s Reservation and Interpretative Declaration (which nevertheless includes a commitment to building the capacity of mainstream schools). In any overview/review of high needs provision, the government must give due regard to its obligation to “move as expeditiously and effectively as possible” towards the full realisation of Article 24[[1]](#footnote-1). The UN stated that sustaining two systems of education - mainstream and special/segregated education - is incompatible with government obligations to promote disabled pupils’ and students’ human rights to inclusive education.

*“States parties are encouraged to redefine budgetary allocations for education, including transferring budgets to develop inclusive education. Any deliberately retrogressive measures in that regard must not disproportionately target learners with disabilities at any level of education.”*

In other words, the government’s obligation under Article 24 is to develop a fully funded mainstream education system that is inclusive of ALL disabled pupils and students. And where necessary the government will be expected to build the capacity of all mainstream schools to become inclusive of all.

Despite the underlying presumption of mainstream education in both Article 24 and the Children and Families Act 2014, the schools and high needs funding policy does not include any specific principles or guidance on how funding should be used to develop inclusive education practice. Consequently, the education budget announcement of £320 million to expand selective school education (via free schools), alongside a £215 million capital allocation to fund a range of specialist provision (including maintained and independent special schools, special units and resourced provision within mainstream schools), is contrary to the promotion of inclusive education for disabled pupils and students.

Research has repeatedly reported that funding a parallel segregated education system does not work for families (Bajwa-Patel & Devecchi 2014). Increasingly parents are finding that no type of school can meet their child’s needs;

*“Cost efficiencies coupled with the personal values of education leaders necessitate that one size does not fit all here. Here in Herts, if you can’t fit in, you’re out; mainstream (MS) or special. Neither way, included. And once you're out, even the local community clubs, aligned to mainstream schools, are no longer accessible. Further exclusion.”* (L Thomas 2017).

Thomas’s experience is supported by our evidence from parents, who tell us that they have found both mainstream and special schools unable to facilitate the needs of Disabled pupils with SEN. One parent told us that, after failing to secure a well-supported mainstream school placement, she equally failed to gain a National Autistic Society school placement for her autistic son. The school cited the boy’s “challenging behaviour” as the reason for non-admission.

A dual system requires the funding of buildings and associated overheads, staff, equipment etc for both mainstream and special schools as well as Alternative Provision, in order to give parents the illusion of choice. As a consequence of the announcement in the Spring 2017 Budget, millions of pounds will be flowing out of mainstream into segregated education based on the assumption that it is in the best interests of some children to be placed in special school. Mainstream schools’ allocation will reduce accordingly, as increasing numbers of Disabled pupils and students are shifted out of mainstream into special, increasing the fragility of any remaining Disabled pupils who need additional support paid for out of a shrinking budget. Miles’s story is an example of how increased segregated education can have a negative impact upon the resources that mainstream schools will have for disabled pupils.

*“Miles was settled into a good mainstream school with a well-resourced impaired hearing unit. After the school’s unit closed down as a result of cuts, the parents had to move him three more times from one school to another before settling for a residential special school for deaf children.”* (Garner 2013)

A number of head teachers have also expressed concern over reductions in their school budgets including SEN block allocations. The Key (2016) found that more than eight in 10 (82%) schools across the country have insufficient funding and budget to adequately provide for Disabled pupils with SEN, and almost nine out of 10 (89%) school leaders have seen the support they receive for these children affected detrimentally by cuts to LA services. The impact upon Disabled pupils with SEN of insufficient SEN support within mainstream schools cannot be underestimated. Disabled children’s needs become higher and more expensive to fund when mainstream schools fail to provide the appropriate SEN support in a timely manner.

*“The failure of the mainstream placement was a result of lack of expertise and training of all the staff, including the head teacher, lack of facilities and insufficient professional input and support from the local authority and the NHS.”* (Tina, parent of a disabled son evidence to ALLFIE, 2017)

When the Department for Education are withholding resources from local mainstream schools, vast sums of money are being spent (£120,000-£250,000) on single residential special school and college placements. Services for disabled children and young people are often planned and commissioned separately from other services and miss strategic opportunities to provide coordinated education, health and care services locally. Rather than thinking strategically on how education, health and care services can be commissioned to allow disabled pupils to access coordinated services within their local mainstream schools, LAs and CCGs will commission on a pupil by pupil basis – after parents have battled to secure the support needed to facilitate the child’s learning. Scope (2012) found that services are commissioned separately through special schools rather than provided within the local community. Again, the commissioning of expensive out of borough special school provision with education, health and care support is not only cost ineffective, but will reduce the remaining available funding for pupils in mainstream education.

Parental choice will be further reduced by government’s proposed guidance that neighbouring LAs should come together to gain cost efficiencies by commissioning education, health and care provision for pupils with low incidence and highly complex needs from regional and national specialist education providers, many of which will be providing day and residential special school provision.

A similar approach is being suggested by LAs working with schools to create a “local” centre of excellence to gain the same cost efficiencies through saving on residential school provision. Such an approach will encourage greater segregation of Disabled pupils with SEN in special school placements (either within or out of borough) where economies of scale can be achieved by providing all health, education and care on one site.

A centre of excellence catering for disabled children with ‘complex’ needs regardless of location (mainstream or a special school or FE) will lead to less rather than more inclusive practice within a borough as illustrated by Simon Smith, who is the head teacher of a primary school academy.

*“There is no viable alternative for these children in our town. In the primary sector, more and more schools seem to be saying that they can’t meet the pupils’ needs. Some of our pupils are with us because the parents were told that their nearest school couldn’t meet the need.”* (TES “The Fight to be an inclusive school” 10/03/2017)

Cressex School in Buckinghamshire, a non-selective school, had 27% disabled pupils on their roll in 2016, double the percentage of the three local grammar schools, which had a combined intake of a mere 14% disabled pupils and students with SEN. Clearly, in areas of selective education, disabled pupils and their families have reduced choice and access to good quality mainstream education. Katy Simons expressed concern over proposed expansion of grammar schools where more funding will be used to develop selective rather than comprehensive non-selective schools with an inclusive ethos.

Centres of excellence and regional and national commissioning arrangements discourage LAs and CCGs from providing local education, health and care services that support disabled children’s attendance at their local schools, as Simon Smith explains.

*“When a parent comes to our door and asks whether we can accommodate a pupil’s needs, we bend over backwards to do so. The nearest specialist provisions are an hour’s drive away.”*

From our experience of centres of excellence in FE, SEN provision for disabled students is being provided within segregated units. For example in Newham and Bromley, Disabled students with learning difficulties are expected to attend segregated employment and ‘preparation for independent living’ courses provided within an isolated wing, set apart from mainstream college facilities.

The government’s school funding formula proposals for LAs and schools in this consultation will ‘reverse the bias towards inclusive education’ (Coalition Goverment Manifesto Commitment 2010).

If LAs are commissioning national and regional special school providers to provide specialist placements for disabled children, and are relying on centres of excellence or mainstream schools with expertise in supporting disabled children with specific needs, this will reduce the incentive for other schools to become inclusive of all pupils. Further, there is a higher risk that schools with an inclusive ethos will face additional pressures on their resources, affecting the quality of learning experiences for all pupils.

LAs no longer have a strategic role in working with mainstream schools to develop inclusive education practice. This means that LAs have a limited role in ensuring that all mainstream schools take on their share of Disabled pupils with SEN in their local communities. Previous to this change in the role of LAs, schools were able to draw upon LA based SEN expertise to enhance their capacity to develop inclusive education practice free at the point of need. However, since the 2010 Academies Act and cuts in LA funding year on year, the LA’s role in supporting mainstream schools to develop inclusive education practice or fund individual pupils has been substantially curtailed. Increasingly heads are having to rely on top-up funding from LAs to pay for additional support that SEN pupils need to participate in learning within mainstream education settings, because the school’s own SEN budget levels are set at insufficient levels. This can lead to the mainstream school having to make difficult decisions about which Disabled pupils with SEN they can continue to support and those that they can no longer support. We know anecdotally, that parents are already being told by schools that they can no longer afford to meet the needs of their Disabled children.

DFE and GSR (2016) found that LAs only want to step in when the child is struggling at school or at risk of being excluded from school and presenting with behaviour issues. This was often felt to limit the progress being made by the child and have a negative effect on the family’s functioning and well-being.[[2]](#footnote-2)

**Question 9**

*Is there any evidence relating to the eight protected characteristics as identified in the Equality Act 2010 that is not included in the Equalities Analysis Impact Assessment and that we should take into account?*

We believe parents of disabled and non-disabled pupils must have the same level of choice with regard to school placements. Funding policies and formulas should not include measures such as special schools and colleges and ‘centres of excellence’ that are a distraction from the Government’s UNCRPD Art 24 obligations to ‘build the capacity of mainstream’. Furthermore, the Equality Impact Assessment should include an analysis of the Government decision to expand selective and segregated education and how this will affect LAs and schools taking shared responsibility for meeting the needs of Disabled pupils with SEN.

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1. CESCR General Comment 3, para. 9, The nature of States parties obligations (art. 2, para. 1, of the Covenant), 1990. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)