



**the case for ending compulsory  
segregation in education**

by  
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THE ALLIANCE FOR INCLUSIVE EDUCATION

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# INTRODUCTION

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Every year, hundreds of children are turned away from their local mainstream schools simply because they are disabled and compelled to join special schools against their choice. In many cases these children miss out on vital years of schooling as their parents fight a long painful battle with the local education authority to try and find them a suitable place. Although there are no statistics on the number of children waiting to join mainstream schools, more and more of these families are coming forward to tell the public of their plight. They, like us, are looking for ways to right this injustice.



*NICKY CRANE is aged 15, lives in Preston, and had been happily attending his local mainstream primary school for six years. When the time came for Nicky to go to a secondary school, the local mainstream school refused to accept him. Nicky has a learning disability but this had not prevented him from learning or joining with other children of his age group. He did not want to go to a special school because it would be a strange experience for him and he wanted to be with his friends.*

*Nicky has found himself without a school for four years.*

Many people assume that every child can choose to go their local mainstream school if they do not want to attend a special school. But this choice does not exist even though we have legislation in the Education Act 1993 and 1996 to say that it is better for all children to receive mainstream education.

At the Alliance for Inclusive Education, we are campaigning to end the compulsory segregation of disabled children into special schools against their or their parents' choice. We are inviting you to join us in this struggle and to help build one good inclusive education system for all children.



# A QUESTION OF HUMAN RIGHTS

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Every citizen in this country is given basic human rights, amongst them to belong to a family. This right can only be withdrawn through a legal process if:

- ◇ the person has been found guilty of a crime or is given a custodial or supervisory sentence
- ◇ the person has been detained under the Mental Health Act
- ◇ the person is a child with a statement of Special Educational Needs.

It is a disturbing fact that a parent or an LEA can legally place a child (from as young as 2 to 19) with a statement in a residential school for 52 weeks a year. The most basic right to a family life can so easily be denied. Interestingly, this power to segregate does not apply to any other groups of children.



Recent legislation in other areas of society concerning the rights of disabled children e.g. The Children's Act 1989 and the NHS & Community Care Bill 1990 impose a duty on statutory services to provide services which enable them to live "as normal a life as possible". The fact that these services are moving towards a human rights approach and de-institutionalising their services is in direct contrast to the situation in education. It is time that education, which ought to be at the forefront of change, came in line with other legislation to protect and promote the interests of disabled children, their families and the whole community in which at least 1 in 8 has some form of disability.

# THE SITUATION NOW

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Decisions on which school a child can go to are governed by the 1996 Education Act which brings together the Education Act 1944 and the Education Act 1993.

Section 316 of the '96 Education Act places a "qualified duty" on local education authorities to place children with special educational needs in ordinary schools.

But three conditions have to be met:

- ◇ the school can meet the child's special needs
- ◇ the education of other children will not be disrupted
- ◇ financial resources are used efficiently

Qualified duty to secure education of children with special education needs in ordinary schools.

143.- (1) Any person exercising any functions under this Part of this Act in respect of a child with special educational needs who should be educated in a school shall secure that, if the conditions mentioned in subsection (2) below are satisfied, the child is educated in a school which is not a special school unless that is incompatible with the wishes of his parent.

(2) The conditions are that educating the child in a school which is not a special school is compatible with -

(a) his receiving the special educational provision which his learning difficulty calls for,

(b) the provision of efficient education for the children with whom he will be educated, and

(c) the efficient use of resources.

For many parents who want a mainstream place, arguing to meet the three conditions above can prove futile because many LEA officers and professionals will argue that any child with significant needs could not meet these conditions, an argument that was supported in the High Court (Crane v Lancashire'97).

This system of having to 'win' a child's place in a school creates a vast geographical difference in provision where only children who are 'lucky' to live in LEAs where the benefits of inclusion are realised are automatically afforded their choice of mainstream school.

There remains no right for disabled children to belong to mainstream school and have their specialist resources accompany them to where they want to be.



# THE PROPOSED CHANGES

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As the legislation is weighted in favour of special schools, we are proposing an amendment to the 1996 Education Act to give parents and children the right to name a mainstream school which is appropriate to the child.

We propose that Section 316 of the 1996 Education Act is amended to the following:

**Any person exercising any functions under this Part of this Act in respect of a child with special needs who should be educated in a school shall secure that the child is educated in a school which is not a special school unless that is incompatible with the wishes of the parent or the child.**



# IMPLICATIONS OF THE CHANGE

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The immediate effect of this change will be relatively small, with those children being denied a mainstream school place being now able to take up that place. For those families who have been locked into bitter disputes with LEAs, it will at last spell the end of an acrimonious struggle.

In the long term, LEAs and schools will have to adapt to the revised legislation. In 1994, the Centre for Studies on Inclusive Education (CSIE) reported that the national trend towards integration came to a standstill in 1992. If this trend now accelerates, as it is expected, LEAs will need training on reallocating resources and government incentives on progressing towards inclusion. The 1992 Audit Commission/HMI report (1) showed that in some LEAs, resources are too often locked up in the special school sector after falling rolls caused by integration. Help for LEAs in reallocating these resources, offering bridging loans/grants from the government and increasing the Schools Access Initiative to make school buildings accessible are ways that will facilitate the changes.

The revised legislation will also have implication for teacher training and training of staff in schools and LEAs. A national programme of training, drawing on the successful inclusive education policies and practices of LEAs such as Newham and Somerset, will help spread good practice across the country.

As far as tribunal cases are concerned, there will be a significant reduction of cases where families are contesting the LEA for a mainstream school place. For the taxpayer, every tribunal case prevented in this way will represent a saving. The accompanying savings on education officers' time in the preparation of statements is unquantifiable but still significant.



# IMPROVING STANDARDS FOR ALL

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Successful inclusion is no longer an ideal to be aspired to, in many parts of the UK and the world, it is a practical reality with benefits for all.

- ◇ The United Nations' Salamanca Statement 1994 says those children with special educational needs "must have access to regular schools" and that **"Regular schools with this inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all; moreover, they provide an effective education to the majority of children and improve the efficiency and ultimately the cost-effectiveness of the entire education system."**
- ◇ Research by Dr. Stephanie Lorez.S. (2) in Leeds concluded that successful inclusion was possible in an LEA committed to integration.
- ◇ In Newham, the implementation of an inclusive education policy was paralleled by a drop in school truancy rates. Although it is difficult to prove the exact correlation, other evidence from schools (3) points towards other benefits for the whole school community when inclusive education is introduced e.g. decrease in bullying. In 1997 Newham was also recorded as the LEA which had made the biggest improvement in standards for all in England and Wales. (4)
- ◇ The Overdale pilot study in Stockport (5) on the inclusion of five children with severe learning difficulties into mainstream classrooms suggests that positive changes in attitudes are possible where disabled children are included.
- ◇ Nepal, India, Philippines, Sri Lanka, China, Korea, Indonesia and Thailand are some of the countries which are engaged in implementing inclusive education policies.



# LOOKING AT COSTS

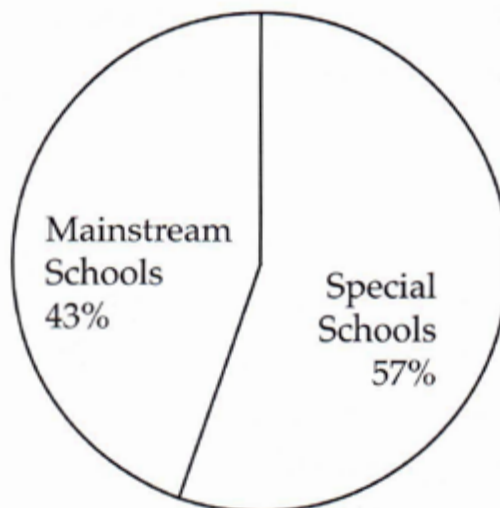
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There is currently a lack of resources for children with SEN and behind many disputes between LEAs and families “lies the problem of chronic underfunding of the public bodies who have a statutory duty to fulfil but only a limited budget on which to meet their statutory obligations” (Mr Justice Turner). Schools are also under enormous pressure to perform well under the league tables. Within this climate, disabled children entering mainstream schools can be often viewed as being “not an attractive commodity” (CSIE).

Practice suggests that inclusion is not necessarily dependent on large amounts of extra resources. The Coopers and Lybrand 1993 report (6) states that the average cost of adapting a primary school for access may be as little as £2,900.

In 1992, of the total budget for SEN in England and Wales of 1.5 billion, over 855 million was spent on special schools serving 106,000 pupils (less than 2% of school-age population). In comparison, 645 million was spent in mainstream schools which served 320,000 pupils with special needs (62,000 of whom had statements). The Audit Commission/HMI Report ‘Getting in on the Act’ identified 53 million which could have been redeployed from special schools to mainstream schools by readjusting budgets after children moved into mainstream. There is no evidence in 1998 that this reallocation has taken place but the fact remains that a disproportionate level of resources are tied up within the special school sector with remarkably little educational success for those pupils in the national league tables.

PERCENTAGE OF  
SEN BUDGET SPENT  
IN MAINSTREAM &  
SPECIAL SCHOOLS  
(1992)



Total budget: £1.5 billion

# HISTORICAL PERSPECTIVES

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In the early 19th century it was assumed that disabled children were 'ineducable' and were left to be brought up by voluntary and religious organisations such as Barnardos or The Shaftesbury Society. Disability was seen as a shameful thing and most authorities put great pressure on families to send their children away into residential institutions and not to visit them. (7) Life in these institutions which were mostly long-term hospitals or 'homes for physical defectives' was very harsh. Doctors were in charge and eugenics theory prevailed.



Much has changed in recent years to reflect our understanding of disability and disabled people are successfully included in all spheres of life. We now have a disabled Minister for Education. But the 'medical model' of disability persists in much of the thinking behind special needs provision by focussing on the disability and ignoring the social barriers which prevent full participation in society. It emerges as a 'deficit' model where specialisms, therapies and special school placement encourage disabled children to aspire to the 'norm'.

Inclusive education emphasises the 'social model' of disability and encourages participation in the mainstream of society with the full support the individual needs. Each individual is encouraged to achieve his/her best in an environment that fosters local community relationships. The Government's Green Paper 1997 makes a firm commitment towards inclusive education. However, it is clear that the right of a disabled child to enter mainstream school is currently not endorsed by legislation.



# REACHING THEIR FULL POTENTIAL

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Many people, and 'experts' included, continue to assert the appropriate-ness of special schools particularly for children who they term as being 'severely disabled'. There is no research to date that proves the effectiveness of special schools in educating disabled children. In fact the National League Tables (although a crude and competitive measurement of success) confirms the poor performance of so many special schools, backed by critical OFSTED reports. For 'severely disabled' children, being placed in a special school makes it hardest for them to communicate (and therefore learn) because other children there will also have difficulty communicating.

Many disabled people who have come out of the special school sector and consider themselves as 'special school survivors' are speaking out on the ineffectiveness of their education in preparing them for life in the community . A number of cases of physical and sexual abuse of children in special schools have also come to light, e.g. Stockgrove Park School. (8)

Many non-disabled children who do not get to meeting disabled children grow up fearing disability and thereby being unable to socialise or engage in activities with them leading to discriminatory attitudes in society.

As yet we have no extensive research on the success of mainstream schools for disabled children but Brinker & Thorpe ('83) (9), Wang & Birch ('84) (10), Slavin & Madden ('86) (11) and Ferguson & Asch ('89) (12) have demonstrated that integration results in greater achievement due to the diversity and enhanced quality of interactions particularly with non-disabled peers. Bennett & Cass ('89) (13) concluded that mainstream classrooms offered a more effective learning environment.

There are also social and human rights arguments as to why it is preferable for all children to be educated together with benefits for all. It seems untenable therefore that under current legislation an element of compulsion should exist in the placement of disabled children in special schools.

# WHO SUPPORTS INCLUSION

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- ◇ **The British Council of Disabled People** - represents 110 organisations of disabled people representing some 750,000 disabled people and is committed to the social model of disability.
- ◇ **The Council for Disabled Children** - a national body representing the voluntary sector supporting disabled children, including Mencap, Scope, the RNIB, Contact a Family, ASBAH, and more.
- ◇ **The National Union of Teachers** - the largest teaching union in Britain representing teachers in mainstream and special schools. Voted in support of an inclusive education policy in April 1996.
- ◇ **The Association of Educational Psychologists** - the professionals who are given a major role in assessing children's special educational needs and making recommendations as to their placement in a mainstream or special school.
- ◇ **The Centre for Studies on Inclusive Education (CSIE)** - major information centre publishing many documents both on good practice in schools and the effects of national legislation and local policies on children's choices and rights.
- ◇ **Parents for Inclusion & Network 81** are both parent-led organisations set up to support parents through the legal maze of special education legislation. Both organisations support the right of all disabled children and young people to a properly supported education in mainstream schools, colleges and communities.
- ◇ **The Alliance for Inclusive Education** - a national campaigning organisation initiated by disabled people and parents to create a new legal framework to enable children to live ordinary, fulfilling lives in their local schools and communities. Membership is open to all.



## References:

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4. The National League Tables, 1997.
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6. 'Within reach - Access for disabled children to mainstream education' by Coopers & Lybrand, commissioned by The Spastics Society and NUT, 1993.
7. See 'Out of Sight - The Experience of Disability 1900-1950' by Steve Humphries & Pamela Gordon, Channel 4, Northcote House, 1992.
8. See report in 'Hamstead & Highgate Express', 15th August 1997.
9. Brinker & Thorpe (1983) cited in Carson, S., 'Normalisation, needs and schools' in Educational Psychology in Practice, 7(4) p.216-222.
10. Wang & Birch (1984) cited in Carson, S., see (9) above.
11. Slavin & Madden (1986) cited in Carson, S., see (9) above.
12. Ferguson & Asch (1989) cited in Carson, S., see (9) above.
13. Bennett & Cass (1989) cited in Carson, S., see (9) above.

## Pictures:

Front cover: Photo of Ben White & Timothy Ronayne at Holway Park Primary School, Somerset (BBC Old School Ties)

Front inside cover: Left: Photo of Zahrah demonstrating with Danny & supporters outside Camden Town Hall (Sally & Richard Greenhill) Right: Photo of Chloe McCollom

Page 1: Photo of Nicky Crane

Page 2: Photo of Claire Dolan (on right) with friend at Harrytown School, Stockport (BBC Old School Ties)

Page 4: Drawing by Naomi Baxter, aged 6

Page 8: Photo of children at Peterborough Special School, London 1906 in 'Out of Sight - The Experience of Disability 1900-1950' by Steve Humphries & Pamela Gordon, Channel 4, Northcote House, 1992.

## With grateful thanks to:

Chloe Bowles for answering endless queries, Richard Rieser, Mark Vaughan at CSIE, Wendy Craig, David Ruebain at David Levene solicitors, Fudiatu, Guy, Yvonne and for everyone who helped with the long production schedule.

Design & DTP: Preethi Manuel

Printed at Disc to Print Tel: 0171 625 5225