



Restoring the Rights of disabled People: Scrap the Coronavirus Act Easements

Children and Families Act Easements

Who is ALLFIE?

The [Alliance for Inclusive Education](#) (ALLFIE) is the only national organisation led by disabled people working on educational issues and, in particular, working to promote the right for disabled students (including those with special educational needs and disabilities; SEND) to be included in mainstream education, as set out in Article 24 of the UN's Convention on the Rights of Persons with Disabilities (UNCRPD).¹

Children and Families Act Easements

The Coronavirus Act 2020 allows the Secretary of State for Education to give notice to modify s(42) of the Children and Families Act 2014 and SEND Education Health and Care Plans (EHCP) regulations, which facilitated the relaxation of local authorities' duties to secure SEND provision in young people's EHCPs and their accompanying statutory timescales.² These easements are one of the reasons so many parents lack confidence that their children will be safe and educated in their school during the Covid-19 pandemic. Whilst we welcome the Government's pause on modifying the Children and Families Act provision, we want this to be withdrawn from the Coronavirus Act in order to provide disabled young people and their parents

¹ United Nations. (2016). *Convention on the Rights of Persons with Disabilities (CRPD)*. New York City, New York: United Nations. Retrieved from <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

² The Alliance for Inclusive Education. (2020). *Coronavirus | Disabled People's Education*. Retrieved from <https://www.allfie.org.uk/news/briefing/coronavirus-disabled-people-education>

with the legal safeguards they will absolutely need; most notably that SEND provision will be secured in mainstream education from September.

What has happened since the Children and Families Act modifications?

ALLFIE has surveyed its members concerning the impact of the Covid-19 pandemic upon disabled students' participation in mainstream education.³ We have found that since schools and colleges closed:

- 83% of parents are expected to home school their disabled children;
- 54% of parents are not receiving any support from either the local authority or their children's school to help with home schooling;
- 34% of parents are receiving some (but not sufficient) support to help with home schooling.

The consequences of the Children and Families Act easements have been an absolute disaster for disabled students. Indeed, local authorities' 'reasonable endeavours' has meant 'no endeavours' in securing any SEND provision, leaving many disabled students without any existing or additional support to facilitate their education.

"We are expected to home school two children, including modifying home-schooling work for a visually impaired child. We now have no therapy intervention at all. This has been detrimental to my SEN child's progress and health." (Disabled Children's Partnership June 2020)

Local authorities have wholly disregarded disabled students' right to be supported throughout their education, despite the Government's guidance setting out how assistance can be arranged through virtual platforms and the use of alternative methods. Furthermore, in-person support has been expected to be arranged for disabled students whenever necessary by the local authority.

Due to the Government's social distancing guidance, education providers have moved from on-site to remote learning. Consequently, the majority of disabled students are unable to engage in remote education with little-to-no support. If

³ The Alliance for Inclusive Education. (2020). *ALLFIE Survey Report: Coronavirus Impact on Disabled People's Education*. Retrieved from <https://www.allfie.org.uk/inclusion-resources/allfie-survey-report-coronavirus-impact-on-disabled-peoples-education/>

disabled students are unable to participate in remote learning then they are being denied their right to mainstream education, as this parent explains:

“One of [my child’s SENCO’s] comments was to tell him he didn’t need to do the work set but this doesn’t address his right to learn..” (ALLFIE’s Parent Survey April 2020)

Disabled university students have also reported high levels of inaccessibility in remote education in the following areas: use of online devices, assistive technology, virtual platforms including curriculum, and a lack of in-person support.

“[There are] Virtual Learning Environments (Blackboard) but the content isn’t accessible 90% of the time. Curriculum content and learning platforms haven’t been changed except more material added - the average accessibility of that online content has actually decreased as speed/readily available content has been prioritised above access...”
(ALLFIE Disabled Student Survey)

Disabled students are reporting that the curriculum content is neither accessible nor inclusive of all, despite the Public Sector Website regulations⁴, Web Content Accessibility Guidelines 2.0⁶ (regarding disability accessibility standards), and the Equality Act’s reasonable adjustments being in place. For instance, disabled students have told us that lecturers/teachers’ lessons, lectures and other course content does not automatically include BSL interpretation, audio description, and subtitling. When remote education is not appropriate, education institutions have failed to differentiate or provide an alternative tactile curriculum for their disabled students.

Online Schools Accreditation Scheme

The Department for Education has just closed an online schools accreditation system consultation.⁷ The department is undertaking a procurement exercise

⁴ The Public Sector Bodies (Website and Mobile Applications) Accessibility Regulations (2018). Retrieved from <https://www.legislation.gov.uk/uksi/2018/852/contents/made>

⁶ Web Content Accessibility Guidelines (WCAG) 2.0. (2008). Retrieved from <https://www.w3.org/TR/WCAG20/>

⁷ Department for Education. (2020). *Online Education Accreditation Scheme: Government Consultation Response*. Retrieved from

inviting organisations to develop accreditation standards. There is no requirement for online schools to provide virtual learning platforms that comply with the necessary legislation.

OFSTED and Office for Students Monitoring Role

OFSTED and Office for Students (OfS) must use their regulatory powers to monitor and inspect the practices of local authorities and education institutions surrounding the upholding of disabled students' right to education, as set out in the extant legal framework and UNCRPD Article 24.⁸

Conclusions

ALLFIE believes local authorities' blatant disregard for disabled students' right to be supported in mainstream education for the past six months comes straight from the Government's relaxation of the Children and Families Act and its associated easements. Further, the Government is in breach of their UNCRPD Article 24 obligations, as set out by the UN's Covid-19 Response guidance.⁹

Recommendations

- Withdraw the Secretary of State for Education's power to modify the Children and Families Act.
- Require education institutions' websites and virtual platforms to comply with the Public Sector (Websites and Mobile Apps) Act, in addition to the Equality Act.
- The criteria comprising Ofsted's new education inspection framework relating to schools and higher education institutions must cover the quality of inclusive and accessible learning opportunities provided to disabled students via remote platforms or alternative methods; this must be in addition to local authorities and education providers' SEND

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891322/Online_Education_Accreditation_Scheme_Government_Response.pdf

⁸ United Nations (2006). Article 24 – Education. Retrieved from

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-24-education.html>

⁹ United Nations (2020). *Covid-19 and the Rights of Persons with Disabilities: Guidance*. Retrieved from

https://www.ohchr.org/Documents/Issues/Disability/COVID-19_and_The_Rights_of_Persons_with_Disabilities.pdf

provision arrangements and the Equality Act's reasonable adjustments within educational and home settings.

- The OfS must monitor and use its enforcement powers around disabled students' complaints and concerns over barriers that disabled students face in returning to higher education, including remote education.

For more information about ALLFIE's Covid-19 campaign work, follow [this link](#).

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