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Subject Area - Education

Special Education Needs

The last fifty years have seen significant changes in the education of students with special learning needs. An estimated 1.7 million pupils in the UK have special educational needs (SEN), with over 250,000 having statements of SEN (Russell 2003, 215). Many positive advances have been made in educating these children, with special needs children receiving more options and learning opportunities. How these opportunities are presented has been an ongoing source of debate. There are basically two schools of thought in special education: one advocates mainstreaming and inclusion, the other supports special schools and segregated programmes. Legislation and educational policy have swung back and forth between the two camps, and while there continues to be disagreement on how best to serve SEN children, legal advances regularly provide for better provision overall for these children's learning needs.

Entering the 1950s, SEN provision was based on the 1944 Education Act, which called on LEAs to decide a child's need for special treatment and appropriate educational measures (Anon 2004, 1). Children deemed 'ineducable' were sent to special schools (Anon 2004, 1). These post-war educational classifications, while seemingly harsh by today's standards, "were seen as a positive improvement" (Potts 1995, 399). By the 1960s, terminology changed from 'mentally deficient' and 'feeble-minded' to 'educationally sub-normal,' and an emphasis on mainstreaming SEN students into regular public schools grew (Potts 1995, 399).

The Warnock Report, *The Education of Handicapped Children and Young People*, was published in 1978 (Potts 1995, 398). The document "provided the foundation for revolutionary change in thinking about the educational needs of children with special needs" (Anon 2004, 2). The report sought to cover any student learning needs that could not be met by teachers in a typical mainstream classroom, and advocated inclusion rather than special schools (Anon 2004, 2). Lady Warnock contended in her report that "we should consider the ideal of including all children in the common educational enterprise of learning, wherever they can best learn" (Kent 2005, 29).

The Warnock Report was soon followed by the Education Act of 1981, a sweeping legislation regarding education in general, but with significant impact for students with special learning needs (Potts 1995, 398). The definition of SEN broadened considerably, and more children were required to be evaluated for SEN, leading to steady increases in the number of special education students throughout the next two decades (Potts 1995, 398). Importantly, the Act prevented any child from being denied education, regardless of impairment, and strongly supported mainstreaming and inclusion whenever possible (Kent 2005, 29).

The 1981 Education Act requires a formal assessment of all potentially SEN children, a provision retained by subsequent legislation (Kenworthy and Whittaker 2000, 220). A 'Statement of Special Educational Needs' is produced by educational authorities, who are responsible for defining the child's areas of need and proposing educational guidelines to best serve the child (Kenworthy and Whittaker 2000, 221). The SEN Statements are to place children in mainstream schools if the child's needs can be met there, his or her presence does not interfere with other children's learning, and inclusion is an efficient use of resources (Kenworthy and Whittaker 2000, 221).

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The UN Rights of the Child Convention, adopted by the UK in 1991, continued the 1981 Education Act's emphasis on inclusion. The Convention contended, amongst other things, that disabled children "should have effective access to and receive education which encourages the fullest possible social integration and individual development" (Anon 2004, 2).

Not all parents or LEAs supported inclusion, however, and many families argued they should have more input into decisions regarding their children's education, and that the complex and bureaucratic appeals process needed reform (Goldthorpe 2004, 130). Parents who disagreed with an LEA's assessment of or recommendations regarding their children made an appeal before a local panel of elected representatives in a lengthy and complicated two-tier system (Kenworthy and Whittaker 2000, 224).

The process often resulted in logjams, and delays were frustrating to all parties involved (Kenworthy and Whittaker 2000, 224). In 1993 the government responded with a new Education Act, which established the SEN Tribunal (Henshaw 2003, 7). The Tribunal provided parents with rights of redress, whereby they could challenge decisions by the LEA regarding their children (Henshaw 2003, 7). Parents' (and later children's) views were now required to be given equal validity in the assessment and decision processes (Henshaw 2003, 7). In 1994, a revised Code of Practice on Special Educational Needs further supported family involvement (Kenworthy and Whittaker 2000, 224). The Code was designed to guide and improve the overall provision for SEN students, and "charges those responsible with providing the education which is appropriate with regard for the child's special educational need" (Anon 2004, 3).

Significant legislation continued throughout the 1990s. The comprehensive Disability Discrimination Act of 1995 detailed comprehensive civil rights for all disabled people, including SEN students (Anon 2004, 3). The 1996 Education Act continues government emphasis on mainstreaming and inclusion, providing "a legal framework for the assessment and development of special education provision for children with special education needs" (Anon 2004, 3). "In exercising their powers and duties under the current statute, LEAs must have regard to the general principle that pupils are to be educated in mainstream schools unless that is incompatible with the wishes of the parents and the needs of the child or the provision of efficient education for other children" (Henshaw 2003, 4).

Additional regulations related to the Act and implemented in 1997 officially require parents to be consulted and their advice taken in creating a child's SEN statement (Anon 2004, 3). The Children Act 2000 requires government and educational authorities to make first consideration the best interests of the particular child holistically, rather than simply basing decisions his or her educational needs (Goldthorpe 2004, 129). The Act also affirms the importance of parental choice, and the view of the child as part of a family unit (Goldthorpe 2004, 130).

In view of legislation one would assume parents would favour inclusion; however, more recently the pendulum appears to be swinging back towards the continuance of special schools over mainstreaming, at least in some camps. For example, Kent (2005, 30) contends Lady Warnock now believes that "the concept of inclusion was 'the most disastrous legacy' of her 1978 report," and currently advocates "an immediate review of SEN provision and a moratorium on the closure of special schools."

The passage of the Special Educational Needs & Disability Act 2001 (SENDA) provides for closure of special schools only as mainstream schools have developed programmes and resources to meet SEN students' requirements (Kent 2005, 29). This throws the SENDA into conflict with the pro-inclusion Education Act 1996. Henshaw (2003, 3) contends

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“We are beginning to see a remarkable growth in the tensions and conflict arising from the practical implications of implementing aspects of the Education Act 1996 and Special Educational Needs and Disability Act 2001.” Russell (2003, 221) however, argues SENDA has “created higher expectations of the potential achievements of disabled children and raised awareness in education providers of their duties to promote access and inclusion.” SENDA importantly establishes a new set of Tribunal regulations, the Special Educational Needs Tribunal Regulations 2001, which extends the Tribunal to also cover appeals made on the basis of discrimination (Henshaw 2003, 7). This allows parties in the appeals process to invite any number of witnesses to attend the appeal and speak on their behalf, and opens the hearings to any invited parties (Henshaw 2003, 7).

Wider government initiatives in the past few years have also increased opportunity and provision for SEN students. The Carers and Disabled Children Act 2001 provides financial and resource allocations, offering “new opportunities for flexible and individualised packages of support through the use of direct payments” (Russell 2003, 217). The government’s broader Special Educational Needs and Disability Regulations 2002 also includes provisions to address and prevent “discrimination against disabled people in their access to education” (Henshaw 2003, 8).

The National Learning Disability Strategy and the Department of Health’s Valuing People Implementation Team both seek to encourage more and improved community-based services for SEN children and their carers (Russell 2003, 221). The government also created the Disability Rights Commission in 2002, designed to ensure all services consider the needs and rights of disabled persons and seek to address them proactively (Russell 2003, 215). Groundbreaking initiatives such as the new SEN Action Programme “offer real opportunities for positive change and development” (Russell 2003, 217), and additional legislative reform is currently being considered based on findings of the 2004 Ofsted Report regarding the effective provision for SEN students in mainstream schools (Kent 2005, 29).

Students with special education needs have benefited from each of these legislative initiatives, with the provision and options for their education needs becoming more effective and their families gaining greater input. Whilst these students will always face learning challenges, they now have greater options for and input into the learning alternatives that most effectively address their needs.

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