Council for disabled children

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Equality Act 2010:
The public sector equality duty:
Reducing bureaucracy:
Policy review paper

a response from the
Council for Disabled Children

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The Council for Disabled Children (CDC) is the umbrella body for the disabled children's sector in England, with links to the other UK nations. CDC works to influence national policy that impacts upon disabled children and children with special educational needs (SEN) and their families. We aim to promote the active participation of disabled children and young people, making sure their voices and success stories are heard.

CDC welcomes the opportunity to respond to this further consultation on the Regulations under Section 149 of the Equality Act 2010: the Public Sector Equality Duty. We would like to point out that we responded to the previous consultation last autumn. We are concerned that our views, and the views of many others, offered during the autumn consultation appear to have counted for nothing in this process.

This further document focuses primarily on the reduction of bureaucracy and shows little concern for the benefits of improving equality of opportunity. The very title of the consultation document suggests that the purpose of the Equality Act has become the reduction of bureaucracy rather than the improvement of the lives of disabled people and people who share other protected characteristics.

The proposed revised Regulations remove important aspects of the specific duties that provide some transparency for parents and for children and young people themselves about how public bodies are meeting their duties.

Engagement

A key concern in our response last autumn was that the regulations that were proposed then placed no requirement on public authorities to engage with people from protected groups. Our concerns were, and continue to be focused on disabled people and disabled children in particular.

CDC's experience of working with schools on the disability equality duty and in relation to disability equality schemes is that reluctance to involve disabled children is often based on concerns that, in practice, may have little or no foundation. Schools may fear that they will find that children, or their parents or carers, want something that the school would find difficult to provide, perhaps because it might cost too much or might require highly specialist or highly technical input; schools may have concerns that they do not know how to involve disabled pupils; or that staff don’t have the skills to involve disabled pupils.

In this context, CDC argued strongly for a requirement to engage with disabled people. A requirement was (under the disability equality duty) a significant factor in moving schools forward in their involvement of disabled pupils, staff, parents, carers and others. The requirement has nudged many schools into engagement that they would not otherwise have contemplated.

Engagement is not in itself bureaucratic. It can make all the difference in terms of the selection of relevant equality objectives. Without engagement there may be limited insight into what public bodies need to do to address inequalities and therefore little progress in addressing the real disadvantages that disabled children face.

Where schools have engaged with disabled pupils, they have been better able to address the real issues, rather than the perceived issues, affecting children’s lives. These often turn out to be low cost or no cost developments, rather than the high cost ones that schools feared would be required. This involvement has not only helped to identify the real issues affecting disabled pupils, but has also promoted discussion about wider issues: the participation of disabled pupils in the more general life of the school, how pupils are supported in school, and crucially a more general discussion about disability and difference.

Rather than requiring engagement the revised proposals further dilute the responsibility to engage, because they do not require public bodies to report on the engagement they have had.

CDC opposes the removal of the requirement to publish information on:

- **engagement public bodies have undertaken when determining their policies;**
- **engagement they have undertaken when determining their equality objectives.**

Equality analysis

CDC recognises and welcomes the overall approach to the specific duties, which is intended to be focused on transparency and outcomes. However, we have significant concerns about the potential of the duties to achieve these ends without the 'workings' of public bodies being available for scrutiny.

CDC starts from a position that recognises the value of the equality duties. Disabled children are at a significant disadvantage in the education system. Inequalities need to be challenged and addressed as a matter of urgency. Public bodies need to have clear responsibilities for addressing inequality.

Disabled children are at a significant disadvantage in the school system. Disabled children and children with SEN[1] are more likely to be bullied,[2] persistent absentees from school,[3] more likely to be

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[1] CDC recognises the difference between disability and SEN, but as, nationally, we do not currently collect data on disabled children from schools, for most data, we take children with special educational needs as the nearest proxy.

[2] DCSF (2008) *Bullying Involving Children with Special Educational Needs and Disabilities. Safe to Learn: Embedding anti-bullying work in schools*

[3] DCSF and National Strategies (2009) *Guidance on the attendance of pupils with special educational needs (SEN)*

excluded,[4] more likely to underachieve[5] and more likely to be 'not in education, employment or training' (NEET) when they leave school. [6]

Without the analysis and this type of information and its publication there is no public scrutiny of the basis for decisions on important equality issues. CDC considers that an equality analysis is essential in the development of policy and that public bodies should have to show what information they considered when they undertook the analysis.

CDC opposes the removal of requirements on public bodies to publish details of the:
- **equality analysis they have undertaken in reaching their policy decisions; and**
- **information they considered when undertaking such analysis.**

CDC would be pleased to provide further information to inform the outcome of this consultation.

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For further information, please contact:

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[4] Department for Education (2010) *Statistical First Release: Permanent and Fixed Period Exclusions From Schools and Exclusion Appeals in England, 2008/09*
[5] DCSF (2010) *Breaking the link between special educational needs and low attainment: Everyone's business*
[6] DCSF (2008) *Reducing the number of young people not in education, employment or training (NEET): The strategy* http://www.dcsf.gov.uk/14-19/documents/neet_strategy_0803.pdf