

Overview of key changes to the education system

This is an overview of some of the key reforms currently taking place in education and how they affect disabled children with SEN. It is not a comprehensive list but aims to pull out some key areas where SEC might want to prioritise activity and take action.

Academies

The coalition government's policy is to encourage all schools to consider academy status. The number of schools opting for academy status has been higher than anticipated since the passage of the Academies Act 2010 and there are now around 1,500 academies.

Legally, academies are independent schools. Education law, including SEN, admissions and exclusions, does not apply directly to academies as independent schools. Following SEC pressure, the Academies Act 2010 ensures all academies will have 'SEN obligations' written into their funding agreements but there remain concerns that these rights are not fully enforceable by parents. The Equality Act applies directly to academies.

Role of the local authority

Academies are not maintained by the local authority. The growth in the number of academies means that local authorities are losing many of their education functions. Nevertheless, local authorities will retain their SEN responsibilities regardless of whether a child is in an academy or maintained school. However, local authorities have few levers for which to influence the behaviour of an academy. Following SEC pressure, academies will still be under a duty to cooperate locally.

Funding

Driven by the academies programme, schools will increasingly receive additional funding that was previously held centrally by local authorities (e.g. funding for behaviour support teams or school improvement). Following SEC pressure, this will not include SEN resources.

However, local authority services are under serious financial strain and many SEC members are documenting significant cuts to SEN services.

Accountability

Academies are not accountable locally. They are accountable to their academy chain (if applicable) and through their funding arrangements to the Secretary of State. Academies are funded centrally via the Young Person's Learning Agency (to be replaced by the Education Funding Agency). This means central Government ultimately decides the number of academy places available locally and is ultimately accountable for their performance.

Accountability to parents has become increasingly unclear and fragmented. Complaints against schools are handled by the local authority in the case of maintained schools and by the Young Person's Learning Agency (to be replaced by the Education Funding Agency) in the case of the academies. The Local Government Ombudsman has been stripped of its power to hear more serious complaints against maintained schools by the Education Act 2011. These complaints will also now revert to the Department for Education.

Disability rights and equality

The Government is proposing to commence the part of the Equality Act which means schools will be required to provide auxiliary aids and services as part of their reasonable adjustment duties. SEC has welcomed this.

The Government's SEN and disability Green paper pledges to 'end the bias toward inclusion'.

The Government's has significantly reduced the scope of the public sector equality duty (previously the disability equality duty).

Teacher Training

The Education Act 2011 abolishes the Training and Development Agency, with teacher training being overseen by an executive agency of the Department for Education.

The Government is developing a new system of teacher training and school support, based on the model of Teaching Schools. These are 'outstanding' schools that take a leading responsibility for providing and quality assuring initial teacher training in their area. In addition, school improvement and support will be driven by Local Leaders in Education, National Leaders in Education and newly created Specialist Leaders in Education – outstanding heads and senior teachers who commit to supporting school improvement beyond their own school.

Ofsted

The Ofsted framework has been revised to focus on the four key areas: pupil achievement, teaching standards, behaviour and school leadership. Ofsted will continue to have a statutory duty to look specifically at how schools meet the needs of disabled children and children with SEN, as introduced in the Children, Schools and Families Act 2009.

Schools recently classified as 'outstanding' will be exempt from regular or routine Ofsted inspection, unless a particular issue is identified.

Curriculum

The national curriculum is being 'slimmed down' with the number of compulsory subjects in the school curriculum is to be cut to four. Academies are exempt from teaching the national curriculum altogether.

The Government has created the English Baccalaureate. This is a performance measure in school league tables which recognises where pupils have secured a C grade or better across a core of academic subjects – English, mathematics, history or geography, the sciences and a language.

The Government is making schools introduce a mandatory phonics check for children aged five and six. All schools will have a one-week window to complete the check and it will be administered for the first time in June 2012.

Development of a single assessment process and plan (Green Paper)

The key proposal in the SEN and disability Green Paper is to develop a single statutory assessment process and a single 'education, health and care plan'. The plan will have at least the same statutory weight as a statement. SEC welcomed the principle of this more joined up approach, while expressing concern that the proposals were not further developed. The local offer is intended to compliment this approach. The local offer is a statement of the minimum level of service provision that is available in an area without the need for a formal assessment.

SEC's position on a single assessment process is that it will need to include children who are currently assessed through a number of different routes. Any agency will need to be able to trigger the process: health, social care or education, as well as a parent or the child or young person themselves. The thresholds at which children become eligible for this plan requires significantly greater thought.

SEC's position on the single plan is that statements of SEN already have commitments from health and social care to deliver services (Parts 5 and 6). However, the problem is that these parts of the statement are not legally enforceable. The delivery of the provision in a single plan needs a clearer and more binding commitment on all agencies than currently exists, otherwise it will be no different to a statement. Accountability for the plan must be focused on outcomes, with a rigorous review process and a single point of redress for parents and young people themselves.

These ideas are being tested in 20 'pathfinder' areas.