

Education – GDA comment on plans for secondary education

Conclusions

1. The Committee for Education, Sport and Culture's current plans for non-selective secondary schools have not included a review of how children with SEN might be affected by the current "three school" plan, or how such students' needs are to be accommodated within these schools. Nor, indeed, have the plans included a more general review of Guernsey's system of educating children with disabilities and SEN.
2. The SEN code does not appear to have been reviewed since 2004, despite an undertaking given to review the policy regularly.
3. In addition to understanding how special services are to be delivered, a review of the physical accessibility of the proposed secondary schools is required.
4. In line with the States Resolution that all plans and policies should consider the disability perspective, the Committee's plans should have taken into consideration the needs of disabled students. In addition, these plans should also have considered the effect of the UNCRRP, which the States has agreed to adopt.
5. The UN Convention requires ratifying nations to progressively realise inclusive systems of education. Guernsey's system might be described as one of 'partial inclusion'.
6. In order to comply with the UN Convention, the forthcoming disability discrimination legislation must protect people against discrimination when accessing education services.
7. Clarity is needed about the effect on Guernsey of the UK's reservations on parts of Article 24 of the Convention.
8. Guernsey's co-location model is uncommon and appears not be operating as originally intended.
9. Views on inclusion and the need to maintain the current co-location model of special schools vary, even amongst GDA members.
10. There has not been an open debate about what inclusion means and what it should look like in Guernsey. It would seem opportune and necessary that this debate happens before plans for the secondary school system are finalised.
11. Educators will have a duty, imposed by the Convention, to challenge stereotyping and to foster respect for the rights of individuals with disabilities.

Background

Guernsey's government has recently agreed that the island should adopt an inclusive, all ability, and non-selective three school approach to secondary education and has published plans to facilitate these changes.

The review of secondary education, and subsequent plans, did not, however, include a review of, or plans for, the two special secondary schools, Le Murier and Les Vois.

The Mulkerin review in 2011, commissioned because of declining GCSE results, did not include a review of special schools within its remit, despite the GCSE results from Le Murier being included in the overall results.

Some GDA members at the time of the Mulkerin review felt left out of the drive to improve educational achievements.

The Committee publishes a SEN Code of practice (2004)

Inclusion - general

Overall there is a strong presumption of inclusion within Guernsey's education legislation and policy. According to the SEN Code of Practice, most children with SEN are expected to be educated within mainstream schools.

In practice, the Guernsey system may be said to be one of partial inclusion because the Committee maintains a system of special schools and also a facility (Les Vois) to accommodate children with social, emotional and behavioural difficulties. However, most children with SEN are indeed educated in mainstream schools and only about 2-3 % are placed in the special schools.¹

The current Guernsey education context is the outcome of decisions, made in the 1990s and early 2000s, to cease the partition of special schools into severe and moderate learning difficulty establishments and to make a partition at 11 years for all pupils in these schools to reflect the mainstream situation.

Both the special primary school, Le Rondin and the special secondary school, Le Murier, are co-located with mainstream schools. This sort of co-location model is not common in other jurisdictions.

Other models of partial inclusion aim to minimise or normalise difference, so that pupils with special needs share the same buildings, the same uniform and the same school name. These other models aim to maximise social interaction through shared activity and, where applicable, and depending on the needs of the child, shared classes.

The original ethos of locating the special schools in this manner was to increase the opportunities for inclusion, and thereby break down the prejudice which can be reinforced through segregation. It is clear that the system, particular with regard to Le Murier, does not operate as first intended and it is possible that co-location may have had the opposite effect and added to the sense of difference and exclusion. Guernsey's system may be (inadvertently) set up in such a manner that achievement of the goals of the Convention, particularly those of challenging segregation and stereotyping, may be never be achievable.

¹ Source: Director of Inclusion and Support Services, Education Department, States of Guernsey, 2013

There is evidence that expectations of the academic achievements of children attending special schools, held by teachers, parents and indeed students themselves, may be lower.

GDA member's views are diverse

Some GDA members are calling for a review of the system of accommodating special educational need, including the existence and location of special schools. Others are satisfied with the special school system and believe their children are better provided for. Some are concerned that if their child was in a main stream school they might be subject to bullying and harassment.

Some parents have argued for a review of the policy and decision making process used to decide which students attend special schools and also a review of the systems and resources available to provide for the needs of students with SEN attending mainstream schools.

Trends in other jurisdictions

In general, education systems around the world are moving away from systems which segregate disabled and non-disabled students and many countries now recognise the UN Convention on the Rights of Persons with Disabilities and enshrine the right of disabled students to equal education in national law. Some countries, Italy for example, have prohibited the establishment of special schools

The emergence of a rights based agenda, in addition to the traditional needs based imperative, is an important and significant factor which should be recognised when designing education systems and policy.

International Conventions and Agreements (for instance the UN Convention on the Rights of Persons with Disabilities, the Salamanca statement 1994, the Unesco Dakar framework for action 2000, the Charter of Luxembourg 1996 and the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities 1993) affirm the principle of inclusivity and urge countries to take action to achieve inclusive education.

The statement, drawn up by a UNESCO world conference held in Salamanca in Spain in 1994, called upon all Governments to:

'adopt as a matter of law or policy the principle of inclusive education, enrolling all children in regular schools, unless there are compelling reasons for doing otherwise'

EU law does not address the issue of inclusion directly, and, so far, the matter has been left in the hands of each Member State. However, the Commission

Communication on an agenda for European cooperation on schools² calls for a re-think of policies regarding special education needs, and argues in favour of inclusive education in preference to teaching in a segregated setting.

The main reasons why there is an international move towards inclusive education are that inclusive systems are seen to respect the human rights of equal treatment and equality of opportunity. Segregated systems are seen as a root cause of discrimination and stereotyping.

Inclusive systems are seen to “normalise” or “usualise” disability and assist attitude change.

The expected effect of; the UNCRPD, Guernsey’s forthcoming disability discrimination legislation, and the current Education Law.

Guernsey States have resolved to request that the UK’s ratification of the UN Convention be extended to Guernsey. The UK’s ratification contained reservations on adopting Article 24, Education, parts 2a and 2b, and it is not clear whether this reservation would automatically extend to Guernsey or whether Guernsey might choose to respect Article 24 in its entirety. The UK’s reservation is unique - no other signatory nation has applied a similar reservation.

The Convention requires that all students have the opportunity to be educated in mainstream schools. This includes a right to have disability related needs accommodated within the mainstream environment. This requirement may be progressively realised. This has implications for Guernsey’s system as there may be some students currently attending special schools who may wish, or whose parents may wish for them, to attend a mainstream school.

The Convention does not prohibit special schools per se, but it does suggest that a government may not insist that a student attends a special school simply because that is where the special services are located.

Article 8 (Awareness raising) of the UNCRPD requires governments to take various steps to raise awareness, combat stereotyping, and promote the rights of disabled people. This includes,

“Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;”

Guernsey’s Education (Amendment) (Guernsey) Law, 1987, specifically puts responsibility on Guernsey’s Education authority to provide services to assist

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Improving competences for the 21st Century: An Agenda for European Cooperation on Schools, {SEC(2008) 2177}

children with Disabilities and SEN to learn equally with others. The Law requires the Department to:

“use its best endeavours, in exercising its functions in relation to the school, to secure that if any registered pupil has special educational needs the special educational provision that is required for him is made,”

This should be a powerful provision because “best endeavours” might be taken to mean exploring all reasonable options.³

To further strengthen the rights of students, Guernsey’s disability discrimination legislation is expected to include protection against discrimination within all forms of education. This is likely to include a requirement to reasonably accommodate students’ needs so that they may have equal opportunity to learn.

Because education is seen as so fundamental to life chances, the duty placed on educators to accommodate need may be higher than on other suppliers of goods and services and may specifically reasonably allow for improvements in physical access to be achieved over time, to allow for phased availability of funds and other resources, as necessary.

³ See for instance, guidance given on the term ‘best endeavours’ offered by Mr J Flaux QC, in Rhodia International Holdings Ltd –v- Huntsman International LLC, 2007.