Written evidence submitted by The Alliance for Inclusive Education (CVD0025)

Introduction

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 rights of disabled students (including those with 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).[i]

ALLFIE uses the term 'disabled children and young people' because many will fall under the definition of disabled persons in the Equality Act 2010.[ii] ALLFIE welcomes the sub-inquiry to comprehensively examine potential ways of easing some of the problems disabled people are facing when they need to access essential services, education, and health and care services and how the Government could improve its existing communications and consultations with disabled people about guidance and policies that substantially affect their daily lives.

Rationale for Submission

Our submission to this consultation is based on evidence gathered from ALLFIE's research, reports, and responses from our networks. While we are able to obtain homogenous demographic data on single identities, we have found that data for measuring demographics based on disability overlapping with race, gender, class and other intersectionality is very limited in the UK. ALLFIE is committed to ensuring racial and intersectional equality remains firmly on the agenda.[iii]

We would like to provide oral evidence to the committee as well.

Disabled People and the Covid-19 Pandemic

The evidence has revealed that many disabled people living in institutionalised settings, inaccessible housing, on poor estates or those dependent on public services and social security benefits are at significant risk of contracting and dying from Covid-19. For disabled people as a whole, the risk of their health and well-being deteriorating is higher than their non-disabled peers. Disabled

people are less likely than their non-disabled peers to be tested for Covid-19, diagnosed with Covid-19, be offered life-saving treatment for Covid-19 and access specific health services. Furthermore, disabled people are more likely than their non-disabled counterparts to experience social isolation and poor housing that all have an impact upon one's health.[iv]

Disabled people are the only group of people with a protected characteristic that have had their rights waived as a result of the Covid-19 Act 2020[v]; this is wholly unacceptable. The Covid-19 Act has allowed public bodies to put aside their duties to provide disabled people with the support they require to live and access essential public services under the Care Act 2014[vi], Children and Families Act 2014[vii] and Mental Health Act 2007.[viii]

The Government's Covid-19 policies such as the lockdown guidance and the easements of the Care Act and Children and Families Act have been challenged by disabled people and their allies, leading relevant departments to review their education, health and care, and lockdown policies which clearly discriminate against disabled people.

SEND and Intersectionality

The Department for Education's national SEND statistics highlighted the profile of disabled pupils and students in England.[ix]

- 73.1% of all pupils with an EHCP are boys and 26.9% are girls.
- Pupils whose first language is known to be English have higher rates of SEN
- The highest percentage of EHCPs are held by the White - Irish traveller group
- 5% of pupils with White - Irish traveller recorded as their ethnicity have an EHCP, and a further 24.9% have SEN support.
- Black Caribbean children have the second highest rate for EHCPs at 4.7%, followed by any other Black background.

White disabled boys and men are more likely than any other group of children to be diagnosed with SEN or a disability that will not only allow them to get an EHCP but also access SEND provision and any reasonable adjustments. The diagnostic criteria for various conditions such as autism, ADHD and mental

health conditions have not discriminated between boys and girls or between men and women. The diagnostic criteria used reflect males' cognitive, emotional and physical patterns of behaviour and performance. As a result, many girls and women do not receive the necessary support to flourish in mainstream education. For instance, disabled girls with autism are less likely than their male counterparts to receive appropriate SEND provision within their educational setting.[x]

Some forms of SEND are on a biological basis. For example, sensory and physical impairments arising from medical conditions are less reliant on education practitioners' subjective judgement on whether a person has a specific, alternative or no SEND diagnosis. However, learning difficulties and social, emotional and mental health diagnoses are culturally constructed; there is a reliance on how pupils' behaviour/performance is being interpreted in terms of the expected patterns or norms by education practitioners. Black, Asian and minority ethnic (BAME) pupils, who usually come from financially disadvantaged backgrounds, are more likely to be diagnosed with social, emotional and mental health needs (SEMH) or moderate learning difficulties (MLD); an inappropriate interpretation of ethnic and cultural differences including teacher racism, low expectations and a failure of schools to provide quality instruction or effective classroom management in comparison to the white majority. BAME pupils are less likely than their white peers to be diagnosed with neurological conditions such as ADHD and autism.[xi] Similarly to girls and women, pupils and students from BAME communities are not receiving the appropriate SEND provision as required and the recognition of racism within the education system needs to be addressed.

We wanted to acknowledge that SEND and intersectionality is vital in understanding how the Covid-19 pandemic is affecting disabled students with more than one identity experience of home education and when education institutions reopen from September 2020.

ALLFIE is highly concerned with the Government awarding such a low priority to the lack of access to mainstream education, health and social care support that disabled students are experiencing as a result of the Children and Families Act s(42) easements. This is evident from the Government's failure to undertake and publish an equality impact assessment, required under the

Equality Act's Public Sector Equality Duty. We are somewhat disappointed that there has been no on-going equality impact assessment of the negative impact of the Children and Families Act's reforms upon disabled students and their families when periodically reviewing the easements. This is now subject to a judicial review case. Similarly, Disabled Students UK reported that various universities have not undertaken any form of equality impact assessment to understand the impact of moving education from onsite to online. We must determine if this is affecting certain groups more than others. Without such data, improvement is impossible.

Whilst schools will be expected to welcome all pupils at the beginning of the autumn term starting in September, we expect families with disabled children at high risk of either contracting or dying from Covid-19 to be shielded at home without any real access to blended learning. As such, we would expect that without urgent planning taking place over the coming months that many disabled pupils will find their education continuing to be adversely affected and widening inequality between themselves and their peer group, which is expected to grow exponentially if they are reliant on remote education.

Remote Education and the Law

Education institutions are increasingly using remote education to discharge their legal responsibilities in arranging education for their pupils; as a result, pupils and students will be required to have an appropriate online learning environment. In 2019, the proportion of recent internet users was lower for disabled adults (78%) compared with those who were not disabled (95%). Unfortunately, there is no comparable data between the percentages of disabled and non-disabled children who are internet users. Consequently, the inequality between disabled and non-disabled internet users participating in remote education and alternative curriculums remains unexposed and requires further investigation.

All publicly funded schools, colleges and universities are required to comply with the Public Sector Website Accessibility Regulations and the Web Content

Accessibility Guidance (WCAG)[xii] 2.1 standards by September 2020 for websites and June 2021 for mobile apps. The regulations cover both administrative and online learning platforms.

The Equality Act's anticipatory duty requires education providers to anticipate disabled students' enrolment and therefore should be planning ahead by incorporating accessibility features into the structure and delivery of online learning platforms. The Equality Act's reasonable adjustments require education providers to differentiate the curriculum for disabled students with learning difficulties. Similarly, replacing in-person therapy with online therapy and other education intervention sessions are alternatives that should be made available for disabled pupils under the Equality Act's reasonable adjustment duties.

The Equality Act 2010's School Accessibility Plans must include the identification of how schools will increase curriculum participation by disabled pupils and improve the accessibility to information for those who are disabled. A review of the plans should include how disabled children are able to access the curriculum through blended learning.

ALLFIE has surveyed its members and invited Facebook posts to enlist disabled pupils, students, parents, and education professionals' experiences of the provision of education services throughout the Covid-19 pandemic. We have found that since schools and colleges closed that:

•   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 NMHP undertook a national survey of disabled students' experiences of higher education during covid-19 pandemic.[xiii] They discovered that:

• 81% of disabled students agreed that academic work, online teaching and online assessments are negatively impacting their studies.

• 57% of disabled students agreed that not having access to teaching was impacting their studies

- 36% of disabled students agreed that not having access to course materials was impacting their studies.
- 73% of disabled students agreed that not having access to academic resources such as libraries and workshops was impacting their studies

What these statistics highlight is the significant role that human contact and the accessibility of appropriate learning environments, as well as online learning platforms play in ensuring that disabled students do not experience inequality of access to mainstream education. ALLFIE's research has identified the following barriers: ownership of equipment, curriculum accessibility, curriculum differentiation, in person support, and compliance with relevant legislation.

Ownership of Equipment

The Family Fund has discovered that online devices were the most important thing that would help families through the lockdown period.[xiv] This suggests that in many families, many of the parents will be disabled themselves and do not have online devices that are essential for engaging with disabled children's remote education. For non-disabled students, the online devices used both within their educational settings and at home are very likely to be of a similar set-up. However, this is not going to be the case for disabled students, as reported by Disabled Students UK[xv]:

> *"A large proportion of disabled students report to us that they have not been given the same tools, software or adapted furniture which they had used and relied on at university."*

Similarly, many disabled children are prevented from accessing remote education because they do not own the appropriate ICT equipment and software required to access remote learning. A specialist teacher highlights:

> *"Many of* [our] *learners are without the equipment needed to access Microsoft Teams which is where* [the] *school is currently setting work. We've got 400 laptops in the ICT suite sitting there idle. Let's give them to the children. Let's give them whatever they need so they can access learning." (Specialist Teacher ALLFIE Professional Survey April 2020)*

Many disabled students can only access remote learning and continue with their education if they are able to use the computer facilities in their school, college and university campuses. Due to lockdown, many disabled students have not been able to continue with their learning at home.

The Government accepted responsibility by providing additional funding to purchase online devices and internet connections for children from financially disadvantaged backgrounds to avoid increasing the educational inequality between pupils with and without access to remote education and a potential legal challenge. Whilst the Government has provided £10 million for the Family Fund charitable trust to distribute to families with disabled children needing help with purchasing equipment during the Covid-19 pandemic, there is nevertheless no guarantee that every disabled child needing online devices and internet access will receive the grant.

Curriculum Accessibility

Education institutions and remote education providers, whilst they have put thought into how to upload readily available lessons for the majority of pupils, the accessibility of curriculum materials for disabled students has not been factored into the online platforms. The accessibility of online learning is highly variable from one education institution to another. A few education institutions, however, are actively working with their disabled pupils to access online learning opportunities.

> *"Online support and contact newsletters, with additional resources and ideas. Much more practical ideas for learning, and Occupational Therapists, Speech and Language Therapists made Mental Health well-being has been at the forefront of the thinking of our school."* (ALLFIE Parents Survey May 2020)

> *"Work is set online but I am in almost daily contact with the Teacher of the Deaf via email to discuss any issues and to share information. We have a means of video contact with Communication Support staff for planned contact time using BSL. Work is set online and accessed daily via an app. Work is not equivalent to a full day in school but I feel it is an appropriate amount for the current situation. We can make video calls to specialist TOD and Communication Support Workers as needed."* (ALLFIE Parents Survey May 2020)

However, these good examples are the exception rather than the rule. ALLFIE and Disabled Students UK have found that online platforms are not always inclusive of disabled students. These are some of the barriers that disabled students have identified in accessing the curriculum, albeit only a small selection.

- Internet being too inconsistent for BSL (deaf/hard of hearing)
- BSL being possible but the lecturer forgetting to include the BSL interpreter in the webinar (deaf/hard of hearing)
- Captions being of poor quality (deaf/hard of hearing)
- The lecturer not describing what is on the slides they are showing (blind/visually impaired)
- Students who need scribes not having access to them (mobility impairments)
- Exam questions not being provided in audio format
- E-textbooks not being able to be read by screen readers

Curriculum Differentiation

Providing the standard curriculum in a variety of formats will enable many disabled students with physical and sensory impairments to participate in remote education on par with their non-disabled peers. However, accessibility alone will not be sufficient for remote education to be inclusive of disabled students requiring curriculum differentiation where the course content needs to be varied in terms of the level of understanding and types of learning activities. ALLFIE's evidence found that many online platforms and individual education providers have given insufficient thought to differentiating the curriculum for disabled students unable to access the standard lessons and lectures uploaded onto the learning platforms.

The Department for Education have launched the Oak National Academy which is offering 180 structured weekly video lessons for children in a direct response to the coronavirus crisis in the weeks of lockdown.[xvi] Apart from the lack of curriculum accessibility, the curriculum has not been differentiated for

disabled students. One of the core problems is that all remote education ought to be inclusive from the start, factoring in the needs of children with SEND as it was developed, rather than being bolted on at the end as an afterthought.

ALLFIE has not found any evidence of education providers consistently using universal standards such as WCAG so that disabled students can expect to access remote education. Indeed, disabled students and their families informed us about the barriers they experienced. Now that schools and other education institutions will be moving to blended learning, a combination of on-site and remote education for the 2020-21 academic year, this provides a good opportunity for the Department for Education to raise the accessibility standards of anyone providing online education. The Department for Education is in the process of setting up the online schools accreditation scheme, which currently does not require providers to include accessibility features in their remote education offer, as required under the Equality Act and Public Sector Website Accessibility Regulations.

In-Person Support Services

In-person support services are vital for promoting equality of access and opportunity for disabled students. They cover everything from specialist teaching, communication facilitation, therapists, learning mentoring, reviewing essay work, providing personal care, and mental health support, to name but a few. Without support, many disabled students have not been able to access mainstream education on par with their non-disabled peers. For many disabled students, the Covid-19 pandemic has resulted in the majority of disabled children going without any in-person education support to facilitate learning. Given the upheaval of moving from school, college and university to home education, the need for support is greater than ever before.

> *"Disabled students' need for support has increased during the pandemic, while disabled students' support from DSA and universities has decreased." (Disabled Students UK 2020)*

Disabled students, because of their impairments and health conditions, may not be able to participate in their learning without accessing therapeutic interventions, the use of learning mentors, specialist teaching, and communication facilitation. For instance, without physiotherapy and

occupational therapy, for many disabled students their physical health deteriorates.

> *"We now have no respite and have no break from 24/7 care needs, plus 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)*

As a result of the Children and Families Act's s(42) easement, many disabled students are without education support. Whilst the Covid-19 guidance suggested therapy sessions ought to be provided via Zoom and other virtual platforms, we found that local authorities had made no effort to secure SEND provision for disabled students with education, health and care plans (EHCPs) once the Secretary of State for Education gave notification at the beginning of May. Similarly, disabled students are reporting difficulties in arranging and accessing in-person support under the Equality Act's reasonable adjustments still in place for all education institutions.

We found that various therapists were deployed to work in the NHS performing health care and administrative roles, which is unacceptable as these roles could have been filled by Health and Social Care and Business Studies students. Disabled students lack of in-person support has led to many of them being denied access to mainstream education.

Compliance with the law

Our research highlights the urgent need for education institutions and online education providers to comply with their legal duties in providing an accessible and inclusive curriculum both on-site and remotely. Whilst higher and further education institutions providing distance learning courses should have developed the necessary skills and knowledge to make their online platforms inclusive of disabled students, this may not have been the case for schools. We were very disappointed that the Department for Education failed in demonstrating good practice by allowing the Oak National Academy to become a national online school provider without any requirement to meet any

accessibility standards set out in law. As the Government is looking to develop an online schools accreditation scheme, we were also highly disappointed that the Department of Education failed to include universal accessibility standards.

School Closures and Returning to Education

ALLFIE's survey focused on the immediate situation that disabled school and university students and their families are experiencing whilst undertaking home education during lockdown. We are currently seeking funds to carry out more extended research into what lessons can be learnt from the experiences of disabled young people and their families regarding home education and the support they need in making a smooth transition back to school, college, and university. Whilst our research is not extensive, families have repeatedly reported a lack of engagement and planning between local authorities and education institutions.

Conclusions

Our findings highlight the extent of ableism in our education system; it is fuelling the widening gap of education progress being made between disabled and non-disabled students. The fundamental shift from onsite to remote education has meant that many disabled people are not getting the support they require to access mainstream education. If local authorities and education institutions are not providing SEND provision, disability-related reasonable adjustments, or offering a suitable differentiated curriculum using a range of learning methods, then disabled students cannot engage in mainstream education alongside their non-disabled peers within a home or an educational setting. Even with support, remote education will not be suitable for all disabled students, but education institutions have not offered any alternative curriculum.

Our survey found that many disabled children without EHCPs are no longer receiving the level, quality, or quantity of special education provision they require despite SEND staff remaining on the school payroll.

To date, ALLFIE's evidence indicates that the Coronavirus Act's changes to SEND legislation will no doubt lead to the greater segregation and exclusion of disabled students from mainstream education.

"For far too long, disabled people have been denied equal rights to mainstream education. No other group has been systematically excluded from mainstream education because of their personal characteristics, i.e., their impairment." (ALLFIE Education Professional Survey April 2020)

Disabled students' need for support has increased during the pandemic, while disabled students' support from DSA and universities has decreased.

"We can only conclude that the Department for Education has failed in their responsibility to give disabled students equal access to education during the first part of the pandemic response, and hope that they learn from this during the second part." (Disabled Students UK 2020)

ALLFIE is concerned that the longer disabled students are not participating in mainstream education in a meaningful manner, the wider the potential educational, life changes, and achievement gap will be between disabled and non-disabled people.

What needs to happen in the short term?

- The Children and Families Act easements need to be removed so that local authorities have an absolute duty to arrange SEND provision for disabled young people with EHCPs within a 20-week time limit.
- An national education plan needs to be developed in case there is a second spike of Covid-19 locally or nationally.
- Local authorities, schools, parents, and young people must work together to develop transition plans back into education at a strategic and individual level.
- Organisations led by disabled people, alongside other allied organisations, must be fully engaged in any proposed changes to education policy and in compliance with UNCRPD Article 24.
- The Department for Education, working in partnership with the Equality and Human Rights Commission, OFSTED, and Office for Students, must undertake enforcement measures to ensure that education institutions' online learning platforms have met public sector (website) regulations, WCAG standards, and the Equality Act's Reasonable Adjustments duties.

- OFSTED inspections of effective education should cover schools' inclusive blended and online learning offer, alongside disabled students' SEND Support, EHCP, and SEND provision identified through the assessment process.
- The Department for Education must urgently review the online schools accreditation scheme so that providers are required to meet universal accessibility standards.
- The DSA and local authorities must be more responsive to the specific and changing needs of disabled students during lockdown and whilst shielding and participating in remote education.
- Universities must be required to ensure that disabled students are able to access the support they require or need promptly during lockdown.
- Extra funding should be made available to provide additional support including access for grants to buy online devices and internet access, etc, for disabled students in different educational settings.

Post Covid-19 Pandemic: Long Term

What the Covid-19 pandemic has highlighted is that the Government must take urgent steps to strengthen the legal framework that supports disabled students in participating in mainstream education both within mainstream educational settings and from home due to health and impairment-related issues.

ALLFIE's inclusive education manifesto consists of six demands; these would move us from the present situation to a fully inclusive education system, as recommended by the UNCRPD's Monitoring Committee. We believe disabled people have the right to:

- An inclusive education supported by human rights laws.
- A coordinated education, health, and social care system.
- An inclusive learning environment.
- An inclusive curriculum.
- An inclusive assessment system.
- An education workforce committed to inclusive education practice.

See here for a full copy of our manifesto.

As the UNCRPD's Monitoring Committee has recommended, the Government should work with organisations of disabled people like ALLFIE to develop a fully inclusive education system. The Government must fulfil its Article 24 obligations around inclusive education by working with ALLFIE.

We would also welcome the opportunity to provide an oral submission.

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