

**REPORT TO: DUNDEE CITY COUNCIL EDUCATION COMMITTEE -
18th DECEMBER 2000**

**REPORT ON: RESPONSE TO SCOTTISH EXECUTIVE DISCUSSION
DOCUMENT/ "STANDARDS IN SCOTLAND'S SCHOOLS
ETC. ACT 2000: GUIDANCE ON SECTION 15 –
REQUIREMENT THAT EDUCATION BE PROVIDED IN
MAINSTREAM SCHOOLS"**

REPORT BY: DIRECTOR OF EDUCATION

REPORT NO.: 775-2000

1.0 Purpose of Report

1.1 To advise on the contents of the response sent by the Director of Education to the Scottish Executive in relation to the discussion document, "Standards in Scotland's schools etc. Act 2000: guidance on section 15 – requirement that education be provided in mainstream schools".

2.0 Recommendation

2.1 The Education Committee is recommended to note the Director of Education's response to the Scottish Executive in relation to the discussion document, "Standards in Scotland's schools etc. Act 2000: guidance on section 15 – requirement that education be provided in mainstream schools".

3.0 Financial Implications

3.1 Nil

4.0 Local Agenda 21 Implications

4.1 Nil

5.0 Equal Opportunities Implications

5.1 The chief aim of the Scottish Executive's proposals is to promote equality of access to mainstream education for all children.

6.0 Background

6.1 The Standards in Scotland's Schools Etc. Act 2000 received Royal Assent on 14th July 2000. Section 15 of the Act introduces a new duty on an education authority to provide education in mainstream schools, except under certain specified circumstances. Draft guidance to assist authorities in implementing this new duty was issued on 24th October 2000.

7.0 Key Issues Contained Within The Discussion Document

7.1 Timescale:

Scottish Ministers propose that the new provision will commence in August 2001 for children beginning school or moving to a new school, and in August 2002 for all other children.

7.2 Legislation:

It is proposed that children will no longer be educated in special units or schools unless agreed exceptional circumstances arise (see para 7.5 below). This legislation includes those children who have social, emotional or behavioural difficulties.

7.3 Aim

The aim of the legislation is to establish the right of all children and young people to be educated alongside their peers in mainstream schools.

7.4 Procedures

Education authorities should build on existing good practice by taking account of all available information from parents and professionals when deciding the most appropriate provision for children. Most commonly, these procedures take the form of annual reviews conducted by schools.

7.5 Planning

The proposals envisage three exceptional circumstances in which education authorities would have the discretion not to apply the requirement for mainstream provision. These circumstances are:

- a) where education in a school other than a special school would not be suited to the ability or aptitude of the child
- b) (where education) would be incompatible with the provision of efficient education for the children with whom the child would be educated

- c) (where education) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred

The proposed legislation also gives authorities the discretion to provide education in a mainstream school even when one or more of the above conditions apply.

7.6 Disagreements

It is proposed that, in the case of a disagreement between a parent and an authority, the parent should have recourse to the placing request procedures as set out in the Education (Scotland) Act 1980, and the new mainstreaming provision will be part of the legal framework governing any decision taken in an appeals committee or Sheriff Court.

8.0 Response To The Discussion Document

8.1 In preparing the response for the Scottish Executive the Director of Education has consulted with Headteachers and professional associations. A copy of the response is available in the members' lounge and with group secretaries.

8.2 The key points made in the response are as follows:

- Dundee City Council strongly believes in policies which promote social inclusion. 98.7% of those of nursery, primary and secondary age are in mainstream education, including a significant number with special educational needs.
- The Council also believes that there are some children whose needs are so pronounced that they require specialist provision. They account for 1.3% of Dundee's nursery, primary and secondary schoolchildren, of whom 1.0% have physical and/or mental disabilities and 0.3% have extreme behavioural difficulties.
- Children with special educational needs have difficulties which place them on a continuum of disorder, and those at the most severe end of the continuum should be entitled to appropriate specialist assistance.
- The right of all children to be educated alongside their peers in mainstream schools, wherever and whenever possible, is respected. Experience also suggests that the inclusion of

those with special educational needs can impact positively upon the mainstream population of the school, and can help to promote a positive ethos in the school.

- Some youngsters would be at a serious disadvantage if educated in mainstream schools, being unable to access intensive support, and subject to growing feelings of frustration, anger and disaffection.
- The right of children to be educated in mainstream schools must also be balanced by the equal right of others to pursue their education in an environment free from the disruptive influence which children with severe behavioural problems can present; and also the right of teaching and support staff to go about their demanding tasks free from excessive strain and pressures must be respected.
- The proposed policy change would be unlikely to add to the time required for assessments, but significant time, effort and resources would need to be expended in practice to ensure the success of the proposal.
- The three conditions under which the requirement for mainstream education would not apply are appropriate, as is the proposal to give discretion to authorities to provide education in a mainstream school even when one or more of the above conditions do apply.
- There is no common or overriding parental view on this matter. There are parents who will wish to have their child educated in a mainstream school regardless of the extent of special need, and others who seek alternative provision. Parents and young people must therefore be involved in the consultation process, with the final decision resting with the authority.
- We agree that alternative specialist provision should be subject to regular review and should rarely be long-term.
- With regard to resources, medical advances in recent years have meant that disabled youngsters are now more able to access education, whether mainstream or specialist, for longer periods of time. There is also clear evidence that the numbers of children with social, emotional and behavioural difficulties are rising. In these circumstances it is essential that

Government seeks to make appropriate provision of well-trained teaching and support staff.

- The suggestion that the condition relating to unreasonable expenditure should only be invoked in the most extreme circumstances cannot be supported. All authorities regularly have to take hard decisions when it comes to determining priorities.

9.0 Consultation

9.1 This report has been the subject of consultation with the Director of Support Services and the Director of Finance.

10.0 Background papers

10.1 No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above report.

Anne Wilson _____ Date _____

Director of Education

RESPONSE TO SCOTTISH EXECUTIVE DRAFT DOCUMENT

Standards in Scotland's Schools Etc. Act 2000

Guidance on Presumption of Mainstream Education

General Comments

Dundee City Council strongly believes in policies which promote social inclusion, and has taken significant steps in recent years to make appropriate provision for all its pupils, including those under the age of 5 years. Of the 22,383 pupils in Dundee's nursery, primary and secondary sectors 98.7% are in mainstream education, including a significant number with special educational needs arising from recognised conditions and syndromes such as autism, sensory impairments, physical impairments and Attention Deficit Disorder, and from social, emotional and behavioural difficulties.

The Council believes, however, that there are some children whose needs are so pronounced that they require specialist provision, and seeks the freedom and flexibility to make decisions for each of these cases based on identified need. The following is the current breakdown of Dundee children not educated in mainstream schools:

- 214 pupils (1.0%) with physical and/or mental disabilities, almost all with a Record of Needs, are in:
 - Armitstead Child Development Centre (7)
 - Frances Wright Pre-School Centre (35)
 - Kingspark Special School (163)
 - residential schools outwith Dundee (9)

- 78 in total (0.3%) with extreme behavioural difficulties, often associated with serious care problems, are in:
 - Castlepark off-site provision (14)
 - Balerno off-site provision (22)
 - Connect 5 off-site provision (22)
 - residential schools outwith Dundee (20)

Specific Observations

Legislation (paragraphs 4 – 6)

All pupils with social, emotional and behavioural difficulties have these with differing intensity. As with disabilities such as autism these pupils find themselves somewhere on a spectrum of disorder, with different problems and needs. It is therefore right that *those whose difficulties place them at the most severe end of the spectrum should be entitled to whatever specialist assistance the authority can provide.*

Not all of these children will require a Record of Needs. In part the solution to their problems will be very simple. *Since it has been shown, after the deployment of a range of intervention strategies, that they cannot cope with the day-to-day demands of the mainstream school they need to be educated in smaller units where they will receive more attention.*

Aim (paragraphs 7 & 8)

The fundamental right of all children to be educated alongside their peers in mainstream schools *wherever and whenever possible* is respected. The Council also strongly agrees that the inclusion of those with special educational needs can impact positively upon the mainstream population of the school, and can help to promote a positive ethos in the school.

However some youngsters, either with severe physical and/or mental disabilities, or who present very challenging behaviour to teaching and support staff, would be at a serious disadvantage if educated in mainstream schools, unable to access necessary intensive support and subject to growing feelings of frustration, anger and disaffection.

The right of children to be educated in mainstream schools must also be balanced by the equal right of others to pursue their education in an environment free from the disruptive influence which children with severe behavioural problems can present; and the right of teaching and support staff to go about their demanding tasks free from excessive strain and pressures must be respected.

Procedures (paragraphs 9 & 10)

Authorities do pay heed to all available evidence from the body of professionals before deciding appropriate provision, and continue to do so throughout a child's educational career. Annual reviews, therefore, will decide whether alternative provision remains necessary, or if reintegration can be considered.

Planning (paragraphs 11 – 13)

Dundee City Council agrees that the proposed policy change would be unlikely to add to the time required for assessments, but believes that *significant time, effort and resources would need to be expended in practice to provide some prospect of success for the proposal.*

Exceptions (paragraphs 14 – 22)

Dundee City Council is pleased that Ministers recognise the need to make appropriate specialist provision for exceptional cases, and endorses the three conditions under which the requirement for mainstream education would not apply. However some of the wording of the conditions - "efficient", "unreasonable", etc. - is not susceptible to clear and unambiguous definition.

In addition the Council does not take issue with the proposal to give discretion to authorities to provide education in a mainstream school even when one or more of the above conditions do apply.

There is no common or overriding parental view on this matter. While there are parents who strive at all costs to have their child educated in a mainstream school regardless of the extent of special need, there are many others who would argue strongly, against professional advice, that alternative provision should be available. The key point, we accept, is that *parents and young people must be involved in the decision-making process, but the final decision must properly rest with the authority, based on the sum of professional and customer opinion.*

In accepting the argument that it may be appropriate to consider alternative provision for challenging youngsters, Ministers nevertheless express two provisos, viz. that such provision should be subject to regular review, partly in order to consider reintegration, and should be long-term only in exceptional cases. *This Council supports both provisos.*

Ministers should work with authorities to gauge the level of expenditure necessary to support children with special educational needs. Medical advances in recent years have meant that disabled youngsters are now more able to access education, whether mainstream or specialist, for longer periods of time. Sadly there is also clear evidence that the numbers of children with social, emotional and behavioural difficulties are also rising. The need to provide appropriate equipment and accommodation is acknowledged in these proposals, but *it is essential that Government realises that the resource most likely to be of lasting benefit is people, and that appropriate provision of well-trained teaching and support staff must be made.*

Dundee City Council cannot support the suggestion that condition c) -

"(where education) would result in unreasonable public expenditure being incurred which would not ordinarily be incurred"

should only be invoked in the most extreme circumstances". In determining priorities all Authorities regularly have to consider conflicting demands. Consequently there is a significant likelihood of adequate resourcing being a factor in a decision to reject mainstream provision.

December, 2000