

## SECTION 1 INTRODUCTION

### Background

The strategic context for Scottish schools is set out in a series of documents and measures to improve the ambitions of schools and pupils. *Ambitious, Excellent Schools* and *A Curriculum for Excellence* together emphasise the need to develop opportunities to create a curriculum which will prepare young people more effectively for life after school. In part this requires analysis of the content of the curriculum but it also requires that curriculum to be accessible and for those who are to access it, to have ways to demonstrate their knowledge and understanding.

### Policy environment

Several important steps have been taken in the past few years to reduce disability discrimination and to improve Scottish pupils' access to the curriculum. As a result the policy environment is now much more disability friendly than it was compared to even 5 or 10 years ago. A range of duties now apply to education authorities and other providers in order that they can improve access to all areas of education for disabled pupils in schools across Scotland. Key areas of policy developed to improve equity for disabled people of particular relevance to education in schools include the Special Educational Needs and Disability Act (SENDA) 2001, Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 and the Disability Discrimination Act 2005 which includes disability equality duties for public bodies.

### SENDA 2001

The Special Educational Needs and Disability Act 2001 inserted a new Part IV into the Disability Discrimination Act 1995. SENDA 2001 duties are placed on bodies responsible for education establishments including independent and grant-aided schools, local authorities, colleges, universities and providers of adult education.

The two key duties ensuring that education establishments do not discriminate against disabled learners are:

- a duty on education providers not to treat disabled pupils and students less favourably than non-disabled pupils and students, unless the less favourable treatment can be justified;
- a duty on responsible bodies to make reasonable adjustments to avoid putting disabled learners at a substantial disadvantage compared with other learners.

This duty is to all current disabled learners and is anticipatory so education bodies need to think ahead.

## **Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002**

With education devolved to the Scottish Parliament, responsibility for planning duties was taken up by the Scottish Executive and the Education (Disability Strategies and Pupils' Educational Records) (Scotland) Act 2002 was passed by the Scottish Parliament (OPSI, 2002). Disability Strategies describes the planning duties that need to be carried out by local authorities, independent and grant-aided schools in Scotland to meet legal requirements introduced by the Special Educational Needs and Disability Act 2001 (SENDA) and Disability Discrimination Act (DDA). Each local authority and other education provider – the so-called responsible body – has to set out how it plans to improve accessibility in an 'Accessibility Strategy'. These are prepared on a 3-yearly cycle and local authorities in Scotland had to submit their first 3-yearly plan by 1 April 2003.

The Scottish Executive Education Department produced valuable guidance (Scottish Executive, 2002) for local authorities to help them prepare their accessibility strategies, applying to the three areas of improvement needed in relation to disabled pupils:

- Improving access to the physical environment;
- Improving access to the curriculum;
- Improving access to communication and delivery of school information.

Scottish Executive Education Department issued guidance on what education authorities should consider in their accessibility strategies, extracts from which include:

... Similarly, [local authorities] could consider implementing a strategy to make curriculum resources, that are currently paper-based (such as textbooks or worksheets), available in common electronic forms to assist pupils with visual or learning difficulties. [para. 41]

... Consideration should be given to whether class work or homework could be given in alternative forms and, also, consider how any homework, or other work pupils do in alternative forms, can best be marked/commented on by school staff. [Para. 50]

... Responsible bodies should ensure that any information that is important to enable pupils to learn or to be able to participate in school activities can be provided in an alternative form if the pupil may have difficulty reading information provided in standard written form. [Para. 64]

## **Disability Equality Duty**

21<sup>st</sup> January 2006 marked the date the new Disability Equality Duty was laid before Parliament; another important milestone in making the UK a more disability-friendly place to live and work. The general duty came into force on 5th December 2006 affecting all public authorities.

Public sector bodies now have to pay due regard to promoting equality for disabled people in every area of their work. 'Due regard' means that authorities should give due weight to the need to promote disability equality in proportion to

its relevance. They now need to take an organisational approach, embedding disability equality into the everyday work of the organisation, particularly in relation to formulating policy and practices around both service delivery and employment, but also in relation to other functions such as setting budgets, making public appointments, funding and regulatory roles.

The general duty applies to all public bodies. Additional specific duties are also introduced to support most public bodies to achieve the outcomes required by the general duty. Also where a contractor performs a public function, on behalf of a statutory body, then it is considered a public authority and is subject to the general duty in respect of the public functions carried out.

If the contractor is not performing a public function but provides services on behalf of the public authority, the duty sits with the public authority doing the contracting. This means that the contracting public authority, and in particular its procurement divisions commissioning a service, need to build relevant disability considerations into that process. That way the authority can ensure it meets the duty even when the service is actually carried out by an external contractor.

## **Education (Additional Support for Learning) (Scotland) Act 2004**

Almost in parallel with developments in disability discrimination legislation across the UK, Scotland swept away education legislation relating to special educational needs and Record of Needs. In its place we now have a framework based around additional support needs. A complex piece of legislation with accompanying code of practice, the ASL Act sets out local authority duties on what authorities need to do to identify, assess and make provision for children and young people with additional support needs.

## **Copyright legislation**

Current UK copyright law permits the conversion of paper to digital resources for people who meet the definition of 'visually impaired' under the Copyright (Visually Impaired Persons) Act 2002. Other people with a print disability<sup>8</sup> do not currently have these rights, and so schools are prevented from sharing adapted resources. Huge duplication of effort is therefore taking place across Scottish schools: staff in neighbouring schools are spending hours scanning books and creating identical resources because they are unable to legally disseminate them. This situation may change: the Right to Read Campaign is lobbying for a change in the law, the Copyright Licensing Agency is considering how schools can obtain legal access to Digital Learning Resources (Dyer, 2002). Electronic publishers are currently developing DRM (Digital Rights Management) to enable digital resources and electronic books to be disseminated. Copyright is discussed in more detail later.

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<sup>8</sup> People with a print disability are those who cannot obtain access to information in a print format because they:

- are blind or vision impaired;
- have physical disabilities which limit their ability to hold or manipulate information in a printed form;
- have perceptual or other disabilities which limit their ability to follow a line of print or which affect their concentration;
- cannot comprehend information in a print format due to insufficient literacy or language skills. [Witcher S (2006)].

## Implications for accessible formats

Local authorities should therefore already be considering how they can provide learning and curriculum resources in suitable alternative formats for disabled pupils. Many local authorities have procedures, structures and specialist teams to provide materials in Braille, enlarged text or audio format to visually impaired students and this new legislation requires consideration of how provision can be extended to any disabled pupil who has difficulty reading or accessing information.

Key considerations for local authorities include:

- Which formats are required and by whom (e.g. Braille, enlarged and adapted print, symbolised print, audio tape, audio MP3, PDF, Word, switch accessible, etc?)
- How will materials be adapted and who will do it?
- How will materials be distributed to schools and accessed by pupils?
- How can copyright issues be addressed?
- What training is required for staff?
- How might economies of scale be obtained?

These and other questions were discussed at the UK *Symposium on Accessible Digital Curriculum Resources for Children and Young People with Additional Support* funded by the Scottish Executive<sup>9</sup> in 2006. The Symposium brought together local and central government, commercial firms, publishers and voluntary organisations, to discuss how digital versions of curriculum resources could be created and accessed by pupils with additional support needs. It was agreed that while much had been achieved to make the curriculum and its materials more accessible, much remained to be done. Pockets of good practice existed but progress was slow, uneven and considerable duplication of effort took place.

In order to address these and other questions the Scottish Executive Education Department Additional Support Needs Division requested the Communication Aids for Language and Learning (CALL) Centre at the University of Edinburgh to carry out a scoping exercise, an outline of which is set out in Section 2 of this report.

Books for All therefore is set in a context of emerging policy, the need to consider technical solutions and challenges, identifying the support needs of end users and how those who support them can themselves be enabled to do so. The project has features in common with those set out in relation to visually impaired people and described helpfully by Stephen King:

"...in tackling access issues it was vital to take an integrated approach which simultaneously combines researching user needs; finding technical solutions; working on industry standards; and pushing for legislation. A technical solution on its own doesn't work, it's just a pilot. A standard on its own doesn't work: it needs legislation. And a regulatory framework on its own doesn't work, there needs to be a technical solution. So we need to take an integrated approach." Stephen King (2000) writing in the E-Access Bulletin. Issue 4 April'

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<sup>9</sup> Details, presentations in multiple formats and discussions are available at <http://www.callcentrescotland.org.uk/digitalcurriculum/>