

This response was submitted to the [Children, Young People and Education Committee](#) for the inquiry: [Do disabled children and young people have equal access to education and childcare?](#)

AEC 25

Ymateb gan: Amy Griffiths
Response from: Amy Griffiths

Amy Griffiths, BA Hons, Human Rights LLM (candidate) © Not to be reproduced without the explicit permission of the author.

Introduction

Despite a plethora of protections, the international and UK domestic legal systems fail to fully protect the rights of children with SEND. Modern-day framework improvements appear impressive, robust, and holistic in nature. However, the UK still faces criticism over the lack of respect for children's rights and the absence of a comprehensive review of legislation and policies.¹ The Children's Commissioners and the Committee on the UNCRC also remain critical concerning the lack of the voice of the child in decision-making.² Despite the numerous improvements, there remains widespread insufficient incorporation and implementation of the leading international protective legal instrument, the UNCRC, across all of the UK.³ In Wales, only ministers are required to give due regard to the UNCRC and not public bodies.⁴ Therefore, the rights of children with SEND do not appear to be fully protected by the UK domestic legal framework.

Inclusion or Segregation?

The 1994 Salamanca Statement and Framework for Action⁵ called upon the international community to work towards inclusivity in education. The Salamanca Statement boasted that mainstream schools saved educational costs, combat discrimination and built inclusive, welcoming communities, providing "an effective education to the majority of children."⁶ The Centre for Studies on Inclusive Education (CSIE) reported that "the right to education is a single, inclusive system of education; the possibility of choosing segregation should be entirely removed."⁷ Therefore, the international move towards inclusion should, in theory, produce more opportunities and better outcomes for children with SEND.

Within the UK, inclusion SEND processes have, overall, given many deaf and/or hard of hearing children access to support and specialist equipment that they would not have

¹ United Nations (n 28)

² UK Children's Commissioner (n 29) and United Nations, 'Committee on the Rights of the Child: Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland' (*UNCRC*, 12th July 2016) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskHOj6VpDS%2F%2FJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0GL>> accessed 5th August 2022

³ United Nations (n 28)

⁴ Social Services and Wellbeing (Wales) Act 2014, Section 7 (2)

⁵ Salamanca Statement 1994

⁶ Salamanca Statement 1994

⁷ The Centre for Studies on Inclusive Education, 'Briefing from the Centre for Studies on Inclusive Education' (*Supporting Inclusion, Challenging Exclusion*, August 2004) <<http://www.csie.org.uk/about/briefing-aug04.pdf>> accessed 3rd November 2022

otherwise been able to access.⁸ Over 70% of deaf and/or hard of hearing children attend mainstream or resource unit spaces attached to them.⁹ Research shows that most teachers support the idea of inclusion for children with mild mobility or sensory differences.¹⁰ However, the initial push for a single, more inclusive education system has not always been welcomed within the UK.

The British Deaf Association (BDA) raised powerful objections regarding the placement of deaf and/or hard of hearing children in local mainstream schools.¹¹ Whilst the Royal National Institute of Blind People (RNIB) voiced that every pupil with a visual impairment should have equal access to appropriate specialist provisions, regardless of location.¹² The RNIB also argued that generic special educational approaches would not be adequate to meet these specific needs either.¹³ In Wales, the number of pupils in maintained schools identified as having SEND decreased by 20% between 2020/21 and 2021/22. This steep drop coincided with the start of the new ALN system and the introduction of IDPs.¹⁴ On the face of it, these statistics give a solid boost to the perceived success of the inclusion model. However, The National Deaf Children Society (Cymru) (NDCS) has recently written to the Welsh Government, raising concerns over the new ALN system. These concerns include "raising of the bar for IDP eligibility, the use of one-page profiles in place of IDPs and misinformation amongst professionals."¹⁵ These concerns appear justified given the very specialist and unique support these children require.

Research into deaf and/or hard of hearing individuals at secondary mainstream schools showed some attempts to adapt teaching to include the deaf child. However, in most cases, the schools jig-sawed support together whilst not changing the teaching to meet the individual needs of the child.¹⁶ In addition, the NDCS argued that those attending a mainstream hearing school "always have to work towards being the same as the others, but you can never get there."¹⁷ OFSTED found that the delegation of funds to local authorities

⁸ Joy Jarvis 'Jig-sawing it Together: Reflections on Deaf Pupils and Inclusion' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006) 43

⁹ Jarvis (n 84) 43

¹⁰ Jenny Corbett, 'Teaching Approaches Which Support Inclusive Education: A Connective Pedagogy' (1st June 2001) 28 (2) *British Journal of Special Education* 55

¹¹ Jarvis (n 84) 43

¹² Colin Low 'A Defence of Moderate Inclusion and the End of Ideology' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006) 11

¹³ Low (n 89) 12

¹⁴ Welsh Parliament, 'Identifying Additional Learning Needs: Has the Bar Been Raised or Was it Previously Too Low?' (*Senedd Research*, 2022) <[¹⁵ National Deaf Children's Society \(Cymru\), 'Letter from National Deaf Children's Society \(Cymru\)' \(*Senedd Business*, 2022\) <<https://business.senedd.wales/documents/s129811/Letter%20from%20the%20National%20Deaf%20Childrens%20Society%20Cymru%20-%20CYPE6-18-22%20-%20Paper%20to%20note%2012.pdf>> accessed 1st December 2022](https://research.senedd.wales/research-articles/identifying-additional-learning-needs-has-the-bar-been-raised-or-was-it-previously-too-low/#:~:text=The%20number%20of%20pupils%20in,74%2C661%20in%202019%2F20.> accessed 1st December 2022</p></div><div data-bbox=)

¹⁶ Jarvis (n 84) 44

¹⁷ Jarvis (n 84) 45 quoting NDCS 1990 (original publication unfound) 19

had a detrimental effect on services for deaf and/or hard of hearing children.¹⁸ Children with visual impairments require specific support, such as braille, mobility assistance and specialist teacher support. In mainstream schools, evidence suggests braille equivalent learning materials are not provided swiftly or not at all. This hinders the pupil's independence, and instead, they must rely heavily on teaching support staff assistance.¹⁹ Therefore, despite advancements in support and SEND framework, the autonomy and rights of these children are yet to be fully protected within the UK.

However, regardless of the push for inclusive education being given priority,²⁰ there is an increase in children attending special education provisions.²¹ SEND services are under increasing pressure, with over 50% of the one hundred SEND services inspected in 2019 showing severe weaknesses.²² Across the UK, children with SEND continue to face direct barriers to equality²³ and discrimination.²⁴ School buildings and facilities are not currently always made fully accessible.²⁵ *Parents of C v Trustees of Stanbridge Earls School*²⁶ saw the most significant sum ordered of £86,000 for direct discrimination, indirect discrimination, and failure to make reasonable adjustments.²⁷ As recent as 2021, the UK was asked by the Committee on the UNCRC to outline the steps they have taken to ensure that children with SEND have access to fully accessible and inclusive mainstream education and to develop a coordinated legislative and policy framework.²⁸ Children with learning disabilities are also more likely to experience mental health difficulties.²⁹ Whilst Norfolk County Council were recently criticised for making cuts to speech and language provision to free up waiting lists.³⁰ Again, the education of children with SEND in the UK does not currently appear to be of an equal standard as others, despite article 28 of the UNCRC.³¹

During the initial COVID-19 situation, the UK further denied children with SEND the right to an equal education.³² The responses and policies employed undervalued those with SEND, discriminating and violating their human rights. This was undertaken without any proper

¹⁸ Jarvis (n 84) 47

¹⁹ Low (n 89) 13

²⁰ United Nations (n 67)

²¹ United Nations (n 28)

²² UK Children's Commissioner (n 29) 22-23

²³ UK Children's Commissioner (n 29) 9

²⁴ United Nations (n 67)

²⁵ United Nations (n 67)

²⁶ *Parents of C v Trustees of Stanbridge Earls School* (2013) App no. EQLR304 (UK 2013)

²⁷ *Parents of C v Trustees of Stanbridge Earls School* (n 103)

²⁸ United Nations, 'Committee on the Rights of the Child: List of Issues Prior to Submission of the Combined Sixth and Seventh Reports of the United Kingdom of Great Britain and Northern Ireland' (*UN Treaty Body Database*, 4th March

2021) <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2FQPR%2F6-7&Lang=en> accessed 6th September 2022

²⁹ UK Children's Commissioner (n 29) 23

³⁰ Coram Children's Legal Centre, 'Coram Children's Legal Centre Successfully Challenges Policy Slashing Speech and Language Therapy Provision for Children' (*Coram*, 1st March 2022) <<https://www.coram.org.uk/news/coram-children%E2%80%99s-legal-centre-successfully-challenges-policy-slashing-speech-and-language-0>> accessed 8th August 2022

³¹ UNCRC (n 20) Article 28, right to education

³² Harris (n 69)

child impact assessments.³³ Parents reported a lack of appropriate support from schools.³⁴ Article 5 of the ICESCR prohibits states from derogating from the provisions, including the right to education.³⁵ States must also assume responsibility for protecting their vulnerable societies when faced with severe restraints on resources.³⁶ The Committee on the UNCRC has, therefore, accordingly requested the steps that the UK had taken to ensure the protection of the rights of children and how these were mitigated. More specifically, the UK has been asked to outline the measures taken to ensure the continued education of those with SEND going forward.³⁷ However, this was not the first situation where children with SEND have been excluded from education in recent times.

Statistics show that one-third of all school-age children out of school have SEND.³⁸ These exclusions can be a result of failing to meet the needs of the child due to lack of funding, poor training, and negligence. *Phelps v London Borough of Hillingdon*³⁹ importantly established that professionals employed by local authorities should behave competently, and they could be liable in actions for damages if there has been negligence in meeting a child's needs. Strict zero tolerance to behavioural policies also contributes to high levels of SEND exclusions.⁴⁰ In the case of *C and C v The Governing Body of a School, The Secretary of State for Education (first interested party) and The National Autistic Society (second interested party)*⁴¹, it was ruled that the child's aggressive behaviour was not a choice, but a manifestation of distress and sensory overload. It was, therefore, "repugnant" to categorise the unmet SEND of an autistic child as being criminal or antisocial.⁴² Unfortunately, cuts to legal aid have resulted in very little financial support for representation for families who wish to challenge an exclusion on behalf of their child.⁴³ There is also no direct line of petition for children to appeal these decisions either. Therefore, children with SEND are regularly denied their right to a voice in terms of exclusions. The voice of the child shall be discussed in more detail further on.

As with exclusions, the Committee on the UNCRC has also raised concerns regarding the restraint and seclusion of children with SEND. These severe measures should only be used

³³ Westminster Shadow Civil Society, 'Westminster Civil Society Shadow Report - Summary' (*Inclusion London*, March 2022) <<https://www.inclusionlondon.org.uk/campaigns-and-policy/uncrdp/shadow-report/shadow-report/>> accessed 5th September 2022

³⁴ Shannon Ludgate and others, 'Small Steps and Stronger Relationships: Parents' Experiences of Home-schooling Children with Special Educational Needs and Disabilities (SEND)' (2022) 22 (1) *Journal of Research in Special Educational Needs* 10

³⁵ ICESCR (n 18) Article 5

³⁶ United Nations, 'Committee on Economic, Social and Cultural Rights: General comment No 5: Persons with Disabilities' (*UN Treaty Body Database*, 9th December 1994) <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FGEC%2F4760&Lang=en> accessed 20th August 2022

³⁷ United Nations (n 67)

³⁸ Hodkinson (n 2) 174

³⁹ *Phelps v London Borough of Hillingdon* (2000) App no. AC 619 (UKHL 27th July 2000)

⁴⁰ UK Children's Commissioner (n 29) 36-37

⁴¹ *C and C v The Governing Body of a School; The Secretary of State for Education (first interested party) and The National Autistic Society (second interested party)* 2018 App no. 269 (UKUT 8th August 2018)

⁴² *C and C v The Governing Body of a School* (n 119)

⁴³ Owen Bowcott and Sally Weale, 'Pupils' Lawyers Challenge Lower Threshold for School Exclusions' (*The Guardian*, 6th January 2015) <<https://www.theguardian.com/education/2015/jan/06/pupils-lower-threshold-school-exclusions>> accessed 30th July 2022

as the last resort and employed to prevent harm to the child or others.⁴⁴ Whilst the Welsh Government has developed the Reducing Restrictive Practices Framework 2021,⁴⁵ the UK, overall, persistently use isolation, seclusion, and restraint within education. The Committee on the UNCRPD has urged states to eradicate the use of restraint, isolation and segregation relating to disability.⁴⁶ Whilst the Committee on the UNCRC argues that isolation rooms used for disciplining children with SEND must be abolished,⁴⁷ and all forms of corporal punishment in schools and educational institutions are explicitly prohibited.⁴⁸ Rather than protect the rights of children with SEND, the UK's continued use of these methods could be perceived as a grave violation. Sadly, these are not the only harms faced by children with SEND within the UK educational system.

Inclusion ideology for many autistic children has been connected to a painful experience of further social exclusion.⁴⁹ Supporting traumatised autistic adults who have been harmed by their education is costly.⁵⁰ There is a false belief that attending a mainstream school will result in a child becoming less autistic.⁵¹ Mainstream school environments may be overwhelming due to the noise, bright lights, and constant changes causing sensory overload. Good academic grades do not mean that an autistic child will cope in a mainstream school environment or go on to live an independent life.⁵² In these environments, a one-to-one teaching assistant is rarely of help to the child.⁵³ Autistic children are regularly prevented access to equal education, enduring school absences due to lack of support, anxiety, or other mental health difficulties.⁵⁴ Teachers who perceive a child's SEND as behavioural issues do not support the notion of inclusion in mainstream settings.⁵⁵ Teachers' attitudes and competencies, therefore, can affect the implementation of SEND strategies. Rather than protecting the rights of children with SEND, the continued push for a single inclusive educational system could, therefore, again be violating them.

Across the UK, there has been a considerable increase in the number of children with SEND receiving 'Education Other than at School' (EOTAS).⁵⁶ This is defined as any educational provision that meets the individual needs of children and young people who are unable to attend a mainstream or specialist school setting. This education remains the responsibility

⁴⁴ United Nations (n 67)

⁴⁵ Reducing Restrictive Practices Framework 2021

⁴⁶ United Nations (n 28)

⁴⁷ United Nations (n 67)

⁴⁸ United Nations (n 67)

⁴⁹ Patrick Dwyer, 'Isolation in Mainstream Schools' (*Autistic Scholar*, 4th August

2018) <<https://www.autisticscholar.com/isolation-in-mainstream-schools/>> accessed 20th July 2022

⁵⁰ Charlotte Moore 'Speaking as a Parent: Thoughts About Educational Inclusion for Autistic Children' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006) 34

⁵¹ Moore (n 130) 37

⁵² Moore (n 130) 34

⁵³ Lorna Wayne 'Children with Autistic Spectrum Disorders' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006) 28

⁵⁴ UK Children's Commissioner (n 29) 34

⁵⁵ Corbett (n 87) 55

⁵⁶ Hayley Mason, 'EOTAS: Education Otherwise Than at School What is it, and Can I Get it?' (*Special Needs Jungle*, 2nd November 2021) <<https://www.specialneedsjungle.com/eotas-education-otherwise-than-at-school-what-is-it-and-can-i-get-it/>> accessed 30th November 2022

of the local authority and may include online schooling, home tuition, therapeutic interventions, life skill building, or hospital schooling.⁵⁷ Currently, however, there is unequal access to hospital-based education, with only one-third receiving an education in line with government guidance.⁵⁸ Following the initial COVID-19 school closures, some parents stated that their children would not be returning to school following the lifting of restrictions, as it had become apparent that the school were causing distress.⁵⁹ There were, however, growing numbers of children with SEND being electively home-educated even prior to the COVID-19 situation.⁶⁰ The UK government provide no educational resources or support to these children or families, despite article 23 of the UNCRC⁶¹ stating that this should be the case. These educational alternatives certainly conflict with the international push for a single educational system. The tension caused by the idea of inclusion and, at the same time, recognising individual needs is described as the 'dilemma of difference'.⁶² Critics such as Ainscow argue that inclusion should instead centre around human rights and human beings.⁶³ Whereas Farnell argues that the human rights inclusion model is wrong, as it fails to consider the human rights of other mainstream children.⁶⁴

Despite the thrust for inclusion, Jarvis argues that a special school should be available as a first choice.⁶⁵ Children with SEND have access to more specialised support within a specialist provision.⁶⁶ The early years' foundation phase of mainstream schools and specialist provisions are better at meeting SEND support requirements effectively.⁶⁷ If the negative context of being educated within special provisions is removed, it then does not need to be discriminative.⁶⁸ Some people want inclusion, whilst others do not.⁶⁹ Jarvis criticises the UK government's interpretation of inclusion as being concerned simply with location, which is a mainstream, single building, and cutting budgets.⁷⁰ In the case of *London Borough of Croydon v KA*,⁷¹ the local authority argued that the first-tier tribunal had failed to consider

⁵⁷ SENDIASS, 'Education Otherwise Than at School (EOTAS)' (*SEND Information, Advice and Support Service covering Herefordshire and Worcestershire*, Unknown) <<https://www.sendiasshw.co.uk/sendiassworcestershireandherefordshire/info/56/education-otherwise-school-eotas>> accessed 4th December 2022

⁵⁸ UK Children's Commissioner (n 29) 34

⁵⁹ Ludgate and others (n 112) 11

⁶⁰ Charlotte Goddard, 'Responding to The Rise in Home Education' (*Children and Young People Now*, 1st June 2022) <<https://www.cypnow.co.uk/features/article/responding-to-the-rise-in-home-education#:~:text=According%20to%20the%20Association%20of,21%2C%20from%2086%2C335%20to%20115%2C542.>> accessed 28th December 2022

⁶¹ UNCRC (n 21) Article 23, right to disability support

⁶² Lorella Terzi 'Beyond the Dilemma of Difference: The Capability Approach to Disability and Special Educational Needs' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006) 95

⁶³ Mel Ainscow, 'Education for All: Making it Happen' (1995) 10 (4) *Support for Learning* 152

⁶⁴ Michael Farrell, *Standards and Special Education Needs: The Importance of Standards of Pupil Achievement* (Bloomsbury 2000) 45

⁶⁵ Jarvis (n 84) 49

⁶⁶ Hodkinson (n 2) 145

⁶⁷ Hodkinson (n 2) 147

⁶⁸ Low (n 89) 4

⁶⁹ Low (n 89) 5

⁷⁰ Jarvis (n 84) 43

⁷¹ *London Borough of Croydon v KA* (2022) App no. 106 (UKUT 20th April 2022)

the budget-balancing exercise in Section 9 of the Education Act 1996⁷². The local authority argued that the placement choice awarded by the first-tier tribunal was an 'unreasonable public expenditure.' However, the courts found in the respondent's favour. It was successfully argued that a holistic view had to be taken when weighing up the educational, health, and social advantages against the educational, health, and social costs. Meeting the needs of the child would increase educational expenditure; however, this would result in a lessening burden upon both health and social care.⁷³

Sainsbury, however, argues that placing an autistic child into a generic special needs school can be just as damaging as mainstream settings.⁷⁴ Mills et al. found evidence that integrated resources delivered the most significant benefit to a child's development.⁷⁵ This is supported by Vaughn and Klingner, who found that students generally preferred to be supported within a resource base as opposed to a regular classroom.⁷⁶ Mainstream provision cannot provide the social and pastoral support often needed. On the other hand, special schools cannot always provide the high academic opportunities required.⁷⁷ Low advocates for a more 'moderate inclusion approach,' providing a single educational system with attached specialist units.⁷⁸ However, such units are sadly in very short supply within the UK.⁷⁹ The push for social inclusion can appear much more like a political ideology rather than treating children with SEND with dignity and meeting their unique and individual needs.⁸⁰ The current attempt at inclusion within the UK, therefore, causes more harm than good to some children with SEND, which will be explored further below.

The Voice and Best Interests of Children with SEND

In article 12 of the UNCRC,⁸¹ the child's voice holds great force in children's rights. These child-led views add relevant perspectives and experiences in decision-making⁸² and ensure better outcomes. In their 2020 briefing, the joint children's commissioners⁸³ asked the UK when they would ratify the Optional Protocol on a Communications Procedure (OPIC).⁸⁴ OPIC empowers children to have a voice and raise violations beyond their domestic legal systems. The UNCRC has also encouraged the UK to ratify OPIC whilst asking the UK to describe measures taken to ensure the right of the child to be heard.⁸⁵ It is quite

⁷² Education Act 1996

⁷³ London Borough of Croydon v KA (n 154)

⁷⁴ Wayne (n 133) 31

⁷⁵ Paulette Mills et al. 'Effects of Differing Levels of Inclusion on Pre-schoolers with Disabilities' (1998) 65 (1) *Exceptional Children* 79

⁷⁶ JanetteK Klingner and Sharon Vaughn, 'Students' Perceptions of Instruction in Inclusion Classrooms: Implications for Students with Learning Disabilities' (2016) 66 (1) *Exceptional Children* 33

⁷⁷ Moore (n 130) 40

⁷⁸ Low (n 89) 10

⁷⁹ Moore (n 130) 14

⁸⁰ Hodkinson (n 2) 100

⁸¹ UNCRC (n 20) Article 12, voice of the child

⁸² United Nations (n 67)

⁸³ UK Children's Commissioner (n 29) 3

⁸⁴ UNCRC (n 20) Optional Protocol on a Communications Procedure (OPIC) 2014

⁸⁵ United Nations (n 105)

unbelievable that thirty-four years after the UNCRC, the UK continues to stifle this fundamental right to be heard rather than protecting it. The UK has, however, positively ratified the optional communications protocol of the UNCRPD, which permits direct petitions by children.⁸⁶ The UK, however, remains overall accused by NGOs of failing to prioritise children's rights, voices, and policy legislation processes. There is also limited involvement in children and children's rights training,⁸⁷ and in Wales, there is a lack of SEND Welsh-speaking teachers.⁸⁸ The poor quality and lack of consistent child's rights impact assessments (CRIA) have also been noted.⁸⁹ In 2018, a Welsh survey of 6,392 children found that there had been limited participation in school decisions. This was further compounded by reductions in legal aid.⁹⁰

In Wales children are not permitted to bring their own SEND appeals; only parents are on their behalf. The tribunal does, however, ask that attempts be made to obtain the views of the child.⁹¹ Failing to give children of all ages a right to directly petition the SEND tribunal continues to silence further and marginalise children with SEND and has the potential to cause further difficulties into adulthood.⁹² This lack of direct petition could be deemed a violation of the fundamental rights protected by article 12 of the UNCRC.

Article 3⁹³ of the UNCRC is another of the fundamental protections under the UNCRC. It states that the "best interests of children and young people should be thought about at all levels of society and that people in power should respect their rights."⁹⁴ Whilst progress has been made in aiming to make SEND provision more holistic, there are concerns that the best interest of the child is not reflected across legislation and policy-making.⁹⁵ There is also a lack of transparent, coherent, consistent and aggregated data relating to children.⁹⁶ This makes it impossible to effectively monitor and measure children's needs and the fulfilment of their rights.⁹⁷ This is, however, a contentious area of SEND, where the voice of the child and the best interest arguments can regularly clash, especially during SEND cases which include the provisions of the Mental Capacity Act⁹⁸ within their arguments. *London Borough of Hillingdon v WW*⁹⁹ and *Buckingham County Council v SJ*¹⁰⁰ both dealt with matters of

⁸⁶ UNCRPD (n 26) Optional Protocol

⁸⁷ UK Children's Commissioner (n 29) 4

⁸⁸ UK Children's Commissioner (n 29) 34

⁸⁹ UK Children's Commissioner (n 29) 4

⁹⁰ UK Children's Commissioner (n 29) 11

⁹¹ Department of Justice - Northern Ireland, 'To Help You Prepare Your Case' (*Department of Justice - Northern Ireland*, Unknown) <<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/SEN%201%20-%20To%20Help%20you%20Prepare%20your%20Case.pdf>> accessed 27th December 2022

⁹² Westminster Shadow Civil Society (n 111)

⁹³ UNCRC (n 20) Article 3, best interests of the child

⁹⁴ Children and Young People's Commissioner Scotland, 'UNCRC Article 3 - Adults Must Do What's Best for Me' (UNCRC Simplified Articles, 2022) <<https://www.cypcs.org.uk/rights/uncrc/articles/article-3/>> accessed 23rd May 2022

⁹⁵ United Nations (n 67)

⁹⁶ UK Children's Commissioner (n 29) 7

⁹⁷ UK Children's Commissioner (n 29) 6

⁹⁸ The Mental Capacity Act (n 76)

⁹⁹ *London Borough of Hillingdon v WW* (2016) App no. 253 (UKUT 25th May 2016)

¹⁰⁰ *Buckingham County Council v SJ* (2016) App no. 254 (UKUT 25th May 2016)

consent. On each occasion, the local authorities' appeals were dismissed, failing to support the best interests of the child.

Linked with article 3 of the UNCRC, article 18 reaffirms that parents and legal guardians ensure the child's positive development and well-being in line with the child's best interests.¹⁰¹ Whilst article 23 applies a positive obligation on the UK to ensure that families of children with SEND are provided with the proper support.¹⁰² Parents can be powerful advocates for SEND children, and their involvement achieves better outcomes for the child.¹⁰³ Whilst SEND reforms have had some positive impact on the engagement of parents,¹⁰⁴ Strogilos and Tragulia found considerable gaps in understanding how parents and professionals should work collaboratively to support the child best.¹⁰⁵ Parents report feeling isolated during the appeal process, being forced to rely upon costly private assessments of their children's needs.¹⁰⁶ Parents also reported that the appeal system was not user-friendly.¹⁰⁷ *Kumar v London Borough of Hillingdon*¹⁰⁸ was a vital judgement for parents. The local authority had refused to engage with the parents, who wanted the support of their lawyer in mediation. The court found that parents were not only entitled to bring a lawyer to a medication session but that they did not require permission from either the local authority or the independent mediator to do so.

Research shows that many parents are dissatisfied with SEND service providers overall due to the differing assumptions and priorities in relation to the child and family's needs.¹⁰⁹ This conflict in the best interests of the child between parents and professionals has seen an expedient rise in unfounded and dangerous accusations of Fabricated or Induced Illness (FII), particularly against Autistic mothers.¹¹⁰ Parents also report that expert advice is entirely disregarded by schools and local authorities. Indeed, in *Jones v Norfolk CC and another*,¹¹¹ it found that the first-tier tribunal decision had failed to deal with the expert opinions of three professionals. Disagreements regarding a child's diagnostic 'label' is sadly commonplace, especially when local authorities have dwindling budgets.

Sociology approaches often view labelling children with SEND as damaging, leading to

¹⁰¹ UNCRC (n 20) Article 18, parental responsibilities, and state assistance

¹⁰² UNCRC (n 20) Article 23, right to disability support

¹⁰³ Ann Lendrum, 'Developing Positive School–Home Relationships Through Structured Conversations with Parents of Learners with Special Educational Needs and Disabilities (SEND)' (2015) 15 (2) *Journal of Research in Special Educational Needs* 87

¹⁰⁴ Hodkinson (n 2) 147

¹⁰⁵ Vasilis Strogilos and Eleni Tragulia, 'Inclusive and Collaborative Practices in Co-taught Classrooms: Roles and Responsibilities for Teachers and Parents' (2013) 35 *Teaching and Teacher Education* 90

¹⁰⁶ Kate McGough and Elaine Dunkley, 'Staff Crisis Holds Children Back Post-COVID - OFSTED' (*BBC*, 13th December 2022) <<https://www.bbc.co.uk/news/education-63893911>> accessed 13th December 2022

¹⁰⁷ McGough and Dunkley (n 201)

¹⁰⁸ *Kumar v London Borough of Hillingdon* (2020) App no. 3362 (EWHC 2020)

¹⁰⁹ Hodkinson (n 2) 163

¹¹⁰ Fiona Gullon-scott and Cathie Long, 'FII and Perplexing Presentations: What is the Evidence Base for and against Current Guidelines, and What are the Implications for Social Services?' (2022) 52 (7) *The British Journal of Social Work* 1

¹¹¹ *Jones v Norfolk CC and The Special Educational Needs and Disability Tribunal* (2006) App No. 1545 (EWHC 10th July 2006)

marginalisation and discrimination.¹¹² However, the reluctance to label children also prevents them from accessing the specialist support they require.¹¹³ Special Educational Needs Coordinators (SENCOs) have raised concerns that a child must reach a crisis point before requests for support are taken seriously.¹¹⁴ Some argue that the complexity of accessing diagnostic services acts as a barrier to achieving support.¹¹⁵ In Wales, services regularly fail to hit the government-set wait target of twenty-six weeks for the initial neurodevelopmental assessments of children. Some families are instead left waiting up to twenty-four months.¹¹⁶ Furthermore, children and families experience disjointed services in Wales. The Welsh Government have accordingly been urged by the joint children's commissioners to adopt an approach which supports children with or without a formal neurodiverse diagnosis.¹¹⁷ The UK, therefore, appears to be failing in their international obligation to support families of SEND. This failure correlates with the high numbers of children within the care system, particularly in Wales.¹¹⁸ This is further compounded by the UK's widespread failure to protect the voice and best interests of children with SEND, resulting in the need for dispute resolution.

2020-2021 saw 139 SEND appeals lodged in Wales, with the majority regarding primary-aged school children from within the more affluent Cardiff local authority.¹¹⁹ Overall, cases involving boys are more than twice as likely to be lodged, and the majority of claims are brought involving children of white ethnic origin.¹²⁰ Gender and ethnicity, therefore, appear to be significant interrelated characteristics of SEND. On one hand, girls and children from minority backgrounds appear well supported. On the other hand, the SEND of girls could still be missed, and families of ethnic minorities continue to face support barriers. This is despite the UK's commitment to the Vienna Declaration¹²¹ of supporting these vulnerable groups. However, this requires further discussion beyond the scope of this essay.

Summing Up

Whilst there is a wealth of international law protecting the rights of children with SEND, the full force of these rights is not being enjoyed by all. Protections have not been effectively translated into domestic law within the UK. Children are regularly unheard, not just due to their capacity or complex needs, but because the UK fails to give them a voice. Parents, who are arguably the experts on their child's everyday needs, feel ignored and unsupported by

¹¹² Terzi (n 142) 97

¹¹³ Jarvis (n 84) 47

¹¹⁴ Hodkinson (n 2) 147

¹¹⁵ Hodkinson (n 2) 155

¹¹⁶ UK Children's Commissioner (n 29) 20

¹¹⁷ UK Children's Commissioner (n 29) 22

¹¹⁸ The Wales Centre for Public Policy, 'Children's Social Services and Care Rates in Wales: A Survey of the Sector' (*The Wales Centre for Public Policy*, 11th March 2022) <<https://www.wcpp.org.uk/publication/children-looked-after-in-wales-survey/>> accessed 1st January 2023

¹¹⁹ Welsh Government, 'Special Educational Needs Tribunal for Wales Annual Report 2020 – 2021' (*Special Educational Needs Tribunal for Wales*

(SENTW), 2022) <<https://specialeducationalneedstribunal.gov.wales/sites/specialeducationalneeds/files/2022-01/sentw-annual-report-20-21.pdf>> accessed 15th December 2022

¹²⁰ Welsh Government (n 208)

¹²¹ Vienna Declaration 1993

those making significant decisions. Mainstream facilities and staff are often ill-equipped and lack the specialist skills required. In contrast, special schools can, at times, be viewed as segregating and failing the academic aspirations of many.

The well-meaning but rather romanticised vision of inclusion fails to treat the child as an individual human being. Instead, it ignores their unique needs and seeks to scoop all children into a single, cheaper education system under the guise of 'equality.' Radical full inclusion ignores both reality and neglects efficiency. Perhaps if mainstream classes were much smaller, harnessing a more nurturing approach with higher ratios of staff and support, then inclusion would have a better chance at succeeding. However, constant cuts to education budgets and increasing class sizes hampers this.

Forcing all children into a single type of education to suit the 'majority' then neglects the minority, children with SEND. The UK should instead be celebrating and improving upon the many educational options available to children with SEND. Faith schools, independent schools, EOTAS, resource base units, specialist schools, mainstream schools, and home education. Educational budgets must be increased significantly. Support must be specific to the individual child, and that may mean a specialist placement if the child and their parent so choose. Families of SEND must be given more power and support in the UK over their educational choices, as laid out in international law.

Bibliography

Additional Learning Needs and Education Tribunal (Wales) Act 2018

Age of Majority (Scotland) Act 1969

Ainscow, M. 'Education for All: Making it Happen' (1995) 10 (4) Support for Learning

Akhtar, R. and Nyamutata C, *International Child Law* (4th edn, Routledge 2020)

Asbury, K. 'How is COVID-19 Affecting the Mental Health of Children with Special

Educational Needs and Disabilities and Their Families?' (2021) 51 Journal of Autism and Developmental Disorders

Blair, A. 'Rights, Duties and Resources: The Case of Special Educational Needs' (2000) 12 (3) Education and The Law

Bowcott, O and Weale, S. ' Pupils' Lawyers Challenge Lower Threshold for School Exclusions' (*The Guardian*, 6th January 2015) <<https://www.theguardian.com/education/2015/jan/06/pupils-lower-threshold-school-exclusions>> accessed 30th July 2022

Buckingham County Council v SJ (2016) App no. 254 (UKUT 25th May 2016)

Bueren, G. *The International Law on the Rights of the Child* (Kluwer Law International 1998)
C and C v The Governing Body of a School; The Secretary of State for Education (first interested party) and The National Autistic Society (second interested party) 2018 App no. 269 (UKUT 8th August 2018)

Children and Families Act 2014

Children and Young People's Commissioner Scotland, 'UNCRC Article 3 - Adults Must Do What's Best for Me' (UNCRC Simplified Articles, 2022) <<https://www.cypcs.org.uk/rights/uncrc/articles/article-3/>> accessed 23rd May 2022

Children's Act (CA) 1989

Coram Children's Legal Centre, 'Coram Children's Legal Centre Successfully Challenges Policy Slashing Speech and Language Therapy Provision for Children' (*Coram*, 1st March 2022) <<https://www.coram.org.uk/news/coram-children%E2%80%99s-legal-centre-successfully-challenges-policy-slashing-speech-and-language-0>> accessed 8th August 2022
Corbett, J. 'Teaching Approaches Which Support Inclusive Education: A Connective Pedagogy' (2001) 28 (2) *British Journal of Special Education*
Council of Europe, 'Glossary' (Treaty Office, 2021) <<https://www.coe.int/en/web/Conventions/glossary>> accessed 1st October 2021

Department of Education and Science (DES), *Special Educational Needs: Report of the Committee of Enquiry into the Education of Handicapped Children and Young People (The Warnock Report)* (HMSO 1978)

Department of Justice - Northern Ireland, 'To Help You Prepare Your Case' (*Department of Justice - Northern Ireland*, Unknown) <<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/SEN%201%20-%20To%20Help%20you%20Prepare%20your%20Case.pdf>> accessed 27th December 2022

Devon County Council, 'Medical Model' (*Equality and Diversity*, Unknown) <<https://www.devon.gov.uk/equality/communities/disability/medical-model>> accessed 20th November 2022

Disability Discrimination Act (DDA) 1995

Dwyer, P. 'Isolation in Mainstream Schools' (*Autistic Scholar*, 4th August 2018) <<https://www.autisticscholar.com/isolation-in-mainstream-schools/>> accessed 20th July 2022

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

Education (Northern Ireland) Order 1996 as amended by Special Educational Needs and Disability (Northern Ireland) Order 2005

Education (Scotland) Act 1980

Education Act 1981

Education Act 1996

Enquire, 'Additional Support Needs Tribunal' (*Enquire*, Unknown) <<https://enquire.org.uk/service/additional-support-needs-tribunals-for-scotland/>> accessed 28th December 2022

Enquire, 'Co-ordinated Support Plans (CSPs)' (*Getting the Right Support in Place for My Child*, Unknown) <<https://enquire.org.uk/parents/getting-support/co-ordinated-support-plans/>> accessed 10th October 2022

Equalities Act (EA) 2010

European Convention on Human Rights (ECHR) 1950

Evans, A. 'SEND Review: Children to Receive Earlier Support in New Government Plans' (*BBC*, 29th March 2022) <<https://www.bbc.co.uk/news/education-60875163>> accessed 30th July 2022

Evans, J. 'Campaign for Civil Rights Legislation the Direct Payments Act and the Disability Discrimination Act (DDA)' (*Independent Living Institute*, 1996) <<https://www.independentliving.org/docs2/enilevans9610.html>> accessed 1st July 2022

Farrell, M. *Standards and Special Education Needs: The Importance of Standards of Pupil Achievement* (Bloomsbury 2000)

Gillow v UK (1986) App no. 9063/80 (ECHR 14th September 1987)

Goddard, C. 'Responding to The Rise in Home Education' (*Children and Young People Now*, 1st June 2022) <<https://www.cypnow.co.uk/features/article/responding-to-the-rise-in-home-education#:~:text=According%20to%20the%20Association%20of,21%2C%20from%2086%2C335%20to%20115%2C542.>>> accessed 28th December 2022

Gullon-Scott, F. and Long, C. 'FII and Perplexing Presentations: What is the Evidence Base for and against Current Guidelines, and What are the Implications for Social Services?' (2022) 52(7) *The British Journal of Social Work*

Harris, J. 'What Kind of Government Attacks the Rights of Children with Special Needs?' (*The Guardian*, 3rd July)

2022) <<https://www.theguardian.com/commentisfree/2022/jul/03/government-children-special-needs-ministers-parents>> accessed 30th July 2022

Higginbotham, P. 'Cripples' Home and Industrial School for Girls' (*Children's Homes*, 2023) <<http://www.childrenshomes.org.uk/MaryleboneRefuge/>> accessed 18th November 2022

Hodkinson, A. *Key issues in Special Educational Needs, Disability, and Inclusion* (3rd edn, Sage Publications 2019)

Human Rights Act (HRA) 1989

Institute on Community Integration, 'Support of Civil Rights' (*10 Reasons to Support Inclusive School Communities for ALL Students*, Unknown) <<https://publications.ici.umn.edu/ties/inclusive-school-communities-10-reasons/support-of-civil-rights>> accessed 1st December 2022

International Covenant on Civil and Political Rights (ICCPR) 1966

International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966

Jarvis, J. 'Jig-sawing it Together: Reflections on Deaf Pupils and Inclusion' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006)

Jones v Norfolk CC and The Special Educational Needs and Disability Tribunal (2006) App No. 1545 (EWHC 10th July 2006)

Klingner, J. and Vaughn, S. 'Students' Perceptions of Instruction in Inclusion Classrooms: Implications for Students with Learning Disabilities' (2016) 66 (1) *Exceptional Children*

Kumar v London Borough of Hillingdon (2020) App no. 3362 (EWHC 2020)

Lendrum, A. 'Developing Positive School–Home Relationships Through Structured Conversations with Parents of Learners with Special Educational Needs and Disabilities (SEND)' (2015) 15 (2) *Journal of Research in Special Educational Needs*

London Borough of Croydon v KA (2022) App no. 106 (UKUT 20th April 2022)

London Borough of Hillingdon v WW (2016) App no. 253 (UKUT 25th May 2016)

Low, C. 'A Defence of Moderate Inclusion and the End of Ideology' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006)

Ludgate, S. and others, 'Small Steps and Stronger Relationships: Parents' Experiences of Home-schooling Children with Special Educational Needs and Disabilities (SEND)' (2022) 22 (1) *Journal of Research in Special Educational Needs*

Machingura, F. and Museka, G. 'We Are Not Asexual: The Bible, Disability and Pentecostal Spirituality' in Francis Machingura, Lovemore Togarasei and Ezra Chitando (eds), *Pentecostalism and Human Rights in Contemporary Zimbabwe* (Cambridge Scholars 2018)

Mason, H. 'EOTAS: Education Otherwise Than at School What is it, and Can I Get it?' (*Special Needs Jungle*, 2nd November 2021) <<https://www.specialneedsjungle.com/eotas-education-otherwise-than-at-school-what-is-it-and-can-i-get-it/>> accessed 30th November 2022

McGough, K. and Dunkley, E. 'Staff Crisis Holds Children Back Post-COVID - OFSTED' (*BBC*, 13th December 2022) <<https://www.bbc.co.uk/news/education-63893911>> accessed 13th December 2022

Mental Capacity Act 2015

Mills, P. et al. 'Effects of Differing Levels of Inclusion on Pre-schoolers with Disabilities' (1998) 65 (1) *Exemptional Children*

Moore, C. 'Speaking as a Parent: Thoughts About Educational Inclusion for Autistic Children' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006)

National Deaf Children's Society (Cymru), 'Letter from National Deaf Children's Society (Cymru)' (*Senedd Business*, 2022) <<https://business.senedd.wales/documents/s129811/Letter%20from%20the%20National%20Deaf%20Childrens%20Society%20Cymru%20-%20CYPE6-18-22%20-%20Paper%20to%20note%2012.pdf>> accessed 1st December 2022

Nolan, A. *Children's Socio-Economic Rights, Democracy, and the Courts* (Hart Publishing 2011)

NSPCC, 'Gillick competency and Fraser guidelines' (*NSPCC Learning*, 5th August 2022) <<https://learning.nspcc.org.uk/child-protection-system/gillick-competence-fraser-guidelines>> accessed 1st November 2022

O'Connor et al., U. 'The Prevalence of Special Educational Needs in Northern Ireland: A Comparative Analysis' (2022) *European Journal of Special Needs Education* 11

Parents of C v Trustees of Stanbridge Earls School (2013) App no. EQLR304 (UK 2013)

Patel, L. 'SEND in Wales - All Change!' (*Boyes Turner*, 27th February 2018) <<https://www.senexpertsolicitors.co.uk/site/news/send-in-wales-all-change>> accessed 2nd September 2022

Pearson, C. and Watson, N. 'Tackling Disability Discrimination in the United Kingdom: The British Disability Discrimination Act' (2007) 23 (1) Washington University Journal of Law & Policy

Phelps v London Borough of Hillingdon (2000) App no. AC 619 (UKHL 27th July 2000)

Public Accounts Committee, 'Report on Impact Review of Special Educational Needs' (*Northern Ireland Assembly*, 25th February 2021) <<http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/pac/reports/special-educational-needs/report-on-impact-review-on-special-educational-needs.pdf>> accessed 12th December 2022

Pyfers, L. '1760: First School for the Deaf in the UK, Edinburgh' (*Deaf History Europe*, 2020) <<https://deafhistory.eu/index.php/component/zoo/item/1760-first-school-for-the-deaf-in-the-uk>> accessed 2nd November 2022

Reducing Restrictive Practices Framework 2021

Salamanca Statement 1994

Scottish Government, 'Additional Support for Learning: Keeling Schedule' (*Publications*, 2nd August 2017) <<https://www.gov.scot/publications/additional-support-for-learning-keeling-schedule/>> accessed 1st October 2022

Scottish Government, 'National Guidance for Child Protection in Scotland 2021' (*Scottish Government*, 2021) <<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2021/09/national-guidance-child-protection-scotland-2021/documents/national-guidance-child-protection-scotland-2021/national-guidance-child-protection-scotland-2021/govscot%3Adocument/national-guidance-child-protection-scotland-2021.pdf>> accessed 2nd October 2022

SEND Code of Practice 1994

SENDIASS, 'Education Otherwise Than at School (EOTAS)' (*SEND Information, Advice and Support Service covering Herefordshire and Worcestershire*, Unknown) <<https://www.sendiasshw.co.uk/sendiassworcestershireandherefordshire/info/56/education-otherwise-school-eotas>> accessed 4th December 2022

Social Services and Wellbeing (Wales) Act 2014

Special Educational Needs Advice Centre, 'What is an IEP? Individual Education Plan' (*SENAC*, 2023) <<https://senac.co.uk/advice/what-is-an-iep-individual-education-plan/>> accessed 1st December 2022

Special Educational Needs and Disability Discrimination Act (SENDA) 2001

Strogilos, V. and Tragoulia, E. 'Inclusive and Collaborative Practices in Co-taught Classrooms: Roles and Responsibilities for Teachers and Parents' (2013) 35 *Teaching and Teacher Education*

Terzi, L. 'Beyond the Dilemma of Difference: The Capability Approach to Disability and Special Educational Needs' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006)

The Centre for Studies on Inclusive Education, 'Briefing from the Centre for Studies on Inclusive Education' (*Supporting Inclusion, Challenging Exclusion*, August 2004) <<http://www.csie.org.uk/about/briefing-aug04.pdf>> accessed 3rd November 2022

The Education (Special Educational Needs) Regulations (Northern Ireland) 2005

The Special Educational Needs and Disability Act (Northern Ireland) 2016

The Wales Centre for Public Policy, 'Children's Social Services and Care Rates in Wales: A Survey of the Sector' (*The Wales Centre for Public Policy*, 11th March 2022) <<https://www.wcpp.org.uk/publication/children-looked-after-in-wales-survey/>> accessed 1st January 2023

UK Children's Commissioner, 'Report to the United Nations Committee on the Rights of the Child' (*Children's Commissioner*, 2022) <<https://www.childrenscommissioner.gov.uk/report/report-to-the-uk-united-nations-committee-on-the-rights-of-the-child/>> accessed 1st September 2022

UK Government, 'Appeal an Education, Health and Care (EHC) Plan Decision' (*UK Government*, Unknown) <<https://www.gov.uk/appeal-ehc-plan-decision>> accessed 17th November 2022

UK Government, 'Children with Special Educational Needs and Disabilities (SEND)' (*Schools and Education*, Unknown) <<https://www.gov.uk/children-with-special-educational-needs/extra-sen-help>> accessed 10th August 2022

UK Government, 'National Curriculum in England: Framework for Key Stages 1 to 4' (*Department for Education*, 2nd December 2014) <<https://www.gov.uk/government/publications/national-curriculum-in-england-framework-for-key-stages-1-to-4/the-national-curriculum-in-england-framework-for-key-stages-1-to-4>> accessed 1st October 2022

UK Government, 'Special Educational Needs and Disability Code of Practice: 0 to 25 years' (*Department for Education and Department of Health*, January 2015) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf> accessed 1st October 2022

UK Government, 'Tribunal Statistics Quarterly: July to September 2022' (*Ministry of Justice*, 2023) <<https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-july-to-september-2022/tribunal-statistics-quarterly-july-to-september-2022#special-educational-needs-and-disability-send>> accessed 8th January 2023

United Nations Convention against the Discrimination in Education (UNCDE) 1960

United Nations Convention of the Rights of Persons with Disabilities (UNCRPD) 2006

United Nations Convention on the Rights of the Child (UNCRC) 1989

United Nations, 'Committee on Economic, Social and Cultural Rights: General comment No 5: Persons with Disabilities' (*UN Treaty Body Database*, 9th December 1994) <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FGEC%2F4760&Lang=en> accessed 20th August 2022

United Nations, 'Committee on the Rights of Persons with Disabilities; Concluding Observations on The Initial Report of the United Kingdom of Great Britain and Northern Ireland' (*Office of the High Commissioner*, 3rd October 2017) <<https://www.ohchr.org/en/documents/concluding-observations/crpdcgbrco1-committee-rights-persons-disabilities-concluding>> accessed 20th August 2022

United Nations, 'Committee on the Rights of the Child: Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland' (*UNCRC*, 12th July 2016) <<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskHOj6VpDS%2F%2FJqg2Jxb9gncnUyUgbnuttBweOlylfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0GL>> accessed 5th August 2022

United Nations, 'Committee on the Rights of the Child: List of Issues Prior to Submission of the Combined Sixth and Seventh Reports of the United Kingdom of Great Britain and Northern Ireland' (*UN Treaty Body Database*, 4th March 2021) <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGBR%2FQPR%2F6-7&Lang=en> accessed 6th September 2022

Vienna Declaration 1993

Wayne, L. 'Children with Autistic Spectrum Disorders' in Ruth Cigman and Baroness Warnock (eds) *Included or Excluded? The Challenge of the Mainstream for Some SEN Children* (Taylor & Francis Group 2006)

Wearmouth, J. *Special Educational Needs and Disability* (3rd edn, Routledge 2019)

Welsh Government, 'Special Educational Needs Tribunal for Wales Annual Report 2020 – 2021' (*Special Educational Needs Tribunal for Wales* (SENTW), 2022) <<https://specialeducationalneedtribunal.gov.wales/sites/specialeducationalneeds/files/2022-01/sentw-annual-report-20-21.pdf>> accessed 15th December 2022

Welsh Parliament, 'Identifying Additional Learning Needs: Has the Bar Been Raised or Was it Previously Too Low?' (*Senedd Research*, 2022) <[Westminster Shadow Civil Society, 'Westminster Civil Society Shadow Report - Summary' \(*Inclusion London*, March 2022\) <<https://www.inclusionlondon.org.uk/campaigns-and-policy/uncrdp/shadow-report/shadow-report/>> accessed 5th September 2022](https://research.senedd.wales/research-articles/identifying-additional-learning-needs-has-the-bar-been-raised-or-was-it-previously-too-low/#:~:text=The%20number%20of%20pupils%20in,74%2C661%20in%202019%2F20).> accessed 1st December 2022</p></div><div data-bbox=)

Wybraniec, O. 'Fighting Exclusion' (2018) 168 (7815) *New Law Journal*

Wyness, M. *Childhood and Society* (2nd edn, Palgrave Macmillan 2012)