"They Go The Extra Mile"

Reducing inequality in
school exclusions

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List of Abbreviations

CPD   Continued Professional Development

DfE   Department for Education

DSG   Dedicated Schools Grant

EAL   English as an Additional Language

EHRC   Equality and Human Rights Commission

INSET   In-service training

ITT   Initial Teacher Training

LGBT   Lesbian, Gay, Bisexual And Transgender

NEET   Not in Education, Employment or Training

NFER   National Foundation for Educational Research

OCC   Office of the Children's Commissioner

PGCE   Post Graduate Certificate in Education

NQT   Newly Qualified Teachers

PPG   Pupil Premium Grant

PRU   Pupil Referral Unit

QTS   Qualified Teacher Status

RSA   Royal Society for the Encouragement of Arts, Manufactures and Commerce

SEN   Special Educational Needs

TTRB   Teacher Training Resource Bank

UNCRC   United Nations Convention on the Rights of the Child

Foreword by the Children's Commissioner

Last year, I published *"They Never Give Up on You"* – the report of the first Inquiry undertaken by my office – into school exclusions.

One of our key findings concerned the inequalities present in the children who are excluded from school – either permanently or for a fixed period of time.

Simply put, children with special educational needs (SEN), children from low income families, boys, and children from some ethnic groups are much more likely to be excluded. When a child has two or more of these characteristics, the differences in exclusions rates can be enormous.

As an illustration, consider two children – Jack and Jill. They are in the same class at secondary school. Jack is Black Caribbean, has moderate SEN and is eligible for free school meals. Jill is white, has no special needs and is from a more affluent family.

Jack is 168 times more likely than Jill to be permanently excluded from school.

The reasons for this are complicated, and are not limited to what goes on in school. As well as being more likely to be excluded, Jack is also more likely to have a difficult life in many different regards. He is more likely to be unemployed later in life, live in poor accommodation and be in trouble with the police. This is an issue for society as a whole, and school exclusions represent one signifier of a wider problem. Schools do not act in isolation, and cannot be expected unilaterally to level the playing field in terms of life outcomes for children in disadvantaged groups.

However, it is uncontestably the case that some schools do a fantastic job at narrowing the exclusions, and attainment, gap between different groups of pupils. This report looks at what makes these schools so effective, and what can be done to share what they do more widely. We have found that the most important single thing a school can do is to realise that some children need more support than others in school, and to meet this need. The best schools do this instinctively because they realise that this is core to their job, rather than an "optional extra". They also do not view it as giving "special treatment" to "difficult" children. As one head teacher told us, *"We don't do this because we are nice people – although we are. We do it because kids who feel part of the school learn better"*. Crucially, they are willing to provide all support necessary, rather than expecting the child to do all of the changing. If only one part of this report leads to lasting change in the education system, I hope it is this one.

This report makes recommendations regarding the training and development of the teaching workforce, and specifically, how it could be improved to help teachers and schools better address the challenges presented by a diverse pupil population with many different needs. At present, it is possible to qualify as a teacher in England without ever receiving training in child development, SEN, or cultural differences.

Equally, there is more that could be done to encourage the sharing of good practice, and of training and development materials and resources, between schools.

This report makes recommendations to schools, the Department for Education (DfE), to the Teaching Agency and Ofsted who are required by law to respond.

It is vital that we learn from those schools which are performing well and have high behavioural and academic expectations for each and every child, regardless of their background. I consider that these recommendations, if implemented, will significantly improve the life chances of some of the most vulnerable children in our country.

Dr Maggie Atkinson
Children's Commissioner for England

List of recommendations

1. We share Ministers' conviction that a child's background should not limit our shared expectations of their achievement. We believe that this holds as true for behaviour as for academic attainment. We therefore recommend that all parts of the education system that disproportionately and adversely affect the most vulnerable children remain priorities for action. This includes the large differences in rates of exclusion.

2. We recommend that the exclusion rates from "converter" academies should be monitored carefully over time, and any differentials that become apparent should be addressed robustly.

3. We consider that quality assurance of Alternative Provision is best done on a locality basis, by a body with the appropriate expertise. We recommend that localities be incentivised to establish such a body where they have not already done so. These bodies should be robust and impartial enough to safeguard schools, which are charged with the deployment and use of public money to discharge a statutory function – schooling – to a standard that will bear scrutiny from Ofsted, the DfE and their communities, including their governors.

4. We reiterate our recommendation from *"They Never Give Up on You"* that the DfE should work together with the Government Equalities Office and the Equality and Human Rights Commission (EHRC) to produce statutory guidance for schools and other public educational bodies in interpreting the Public Sector Equality Duty (PSED) with regard to exclusions.

5. We recommend that all school-based professionals should have a clear route of accountability to be able to draw problems to the attention of the relevant external body, without fear of reprisals, if they consider that a school is acting in a discriminatory manner.

6. In *"They Never Give Up on You"*, we recommended that the statutory requirements for providers of initial teacher training (ITT) should include a requirement to prepare all newly qualified teachers (NQTs) to teach children with the full range of SEN they should expect to find in a mainstream state-funded school. Further, we recommended that all trainee teachers should be trained to understand the cultural and other differences commonly found in English society, and therefore in its schools.

   Finally, we recommended that all trainee teachers should also study child development and socio-psychological matters such as attachment theory.

   We reiterate the recommendations made in year one of this Inquiry, and urge the Teaching Agency to reconsider its decision not to implement them. As this is a formal report of an Inquiry by this office, we will require a further formal response to this recommendation.

7. We consider that materials prepared as part of the Lamb Review for teaching children with SEN still represent good practice in training teachers in how to teach children with particular special needs, and that they should be used more widely. We therefore recommend that the Teaching Agency slightly amend its website to make these materials easier to find.

8.   We also recommend that a review be undertaken of the existing Teacher Training Resource Bank (TTRB) archived materials, with those still relevant to best practice in diversity and inclusion given due prominence in the work of the Teaching Agency.[1]

9.   Finally, we recommend that the Teaching Agency considers reinstating the TTRB or a similar mechanism to enable practitioners to share best practice with each other, and broker the more widespread dissemination of this best practice. This is not a question of government "telling" schools and others what to do. Rather, it is about government providing a shared space where good practice can be shared between practitioners.

      Neither of these recommendations would involve significant cost to the Teaching Agency, and would make the sharing of best practice between different settings much easier to achieve in a more diversified educational environment. The Government has already accepted the principle of acting as a "signpost" to good practice through its publicising of specific materials for teaching phonics.[2] This recommendation would simply involve extending this to other areas of professional training and development.

10.   We recommend that Ofsted inspectors pay particular attention to inclusion practice when reporting on two specific aspects of their framework for inspections:

      • Under "Quality of teaching and learning", inspectors are required to assess the extent to which "teachers and other adults create a positive climate for learning in which pupils are interested and engaged".[3] This should include an assessment of the extent to which individual needs are addressed and all pupils are included in teaching.

      • Under "Quality of leadership in, and management of, the school", inspectors are required to make a judgement on how schools "enable all pupils to overcome specific barriers to learning".[4] Again, this should include an assessment of the school's attitude to inclusion and meeting the needs of a diverse pupil population.

11.   We recommend that individual teachers are further incentivised to give a higher priority to inclusion in their professional development. Developments currently underway to change the way in which teachers progress through the profession, including the increased use of performance-related pay, should give a clear incentive to teachers to ensure that their professional skills are continually improved and updated, including with regard to managing diversity and encouraging inclusion.

1   http://webarchive.nationalarchives.gov.uk/20120203163341/http://www.tda.gov.uk/training-provider/serving-teachers.aspx
2   www.education.gov.uk/schools/teachingandlearning/pedagogy/phonics/b00198579/phonics-products-and-the-self-assessment-process
3   Framework for School Inspections. Ofsted, December 2012.
4   Ibid.

About the Office of the Children's Commissioner

The Office of the Children's Commissioner (OCC) is a national organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. The post of Children's Commissioner for England was established by the Children Act 2004. The United Nations Convention on the Rights of the Child (UNCRC) underpins and frames all of our work.

The Children's Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives.

One of the Children's Commissioner's key functions is encouraging organisations that provide services for children always to operate from the child's perspective.

Under the Children Act 2004, the Children's Commissioner is required both to publish what she finds from talking and listening to children and young people and those who work with them, and to draw national policymakers' and agencies' attention to the particular circumstances of a child or small group of children that should inform both policy and practice.

The OCC has a statutory duty to highlight instances where it believes that vulnerable children are not being treated appropriately in accordance with duties established under the UNCRC, as well as under other international and domestic legislation.

The OCC was reviewed in 2010 by Dr John Dunford. This review recommended that, in future, it should move towards the status of a formal human rights body. The Government has accepted Dr Dunford's recommendations in principle, and is taking forward their implementation through proposed amendments to the 2004 Act. Pending the 2013 Children and Families Bill becoming law, the OCC works "in the spirit" of these recommendations, consistent with its current statutory remit.

This report forms part of the Inquiry into school exclusions commenced by the Children's Commissioner in July 2011, using powers made available under Section 3 of the Children Act 2004.

These powers are:

"(1) Where the Children's Commissioner considers that the case of an individual child in England raises issues of public policy of relevance to other children, he may hold an Inquiry into that case for the purpose of investigating and making recommendations about those issues.

(2) The Children's Commissioner may only conduct an Inquiry under this section if he is satisfied that the Inquiry would not duplicate work that is the function of another person (having consulted such persons as he considers appropriate).

(3) Before holding an Inquiry under this section, the Children's Commissioner must consult the Secretary of State.

(4) The Children's Commissioner may, if he thinks fit, hold an Inquiry under this section, or any part of it, in private.

(5) As soon as possible after completing an Inquiry under this section the Children's Commissioner must –

(a) publish a report containing his/her recommendations; and

(b) send a copy to the Secretary of State.

(6) The report need not identify any individual child if the Children's Commissioner considers that it would be undesirable for the identity of the child to be made public.

(7) Where the Children's Commissioner has published a report under this section containing recommendations in respect of any person exercising functions under any enactment, he may require that person to state in writing, within such period as the Children's Commissioner may reasonably require, what action the person has taken or proposes to take in response to the recommendations.

(8) Subsections (2) and (3) of section 250 of the Local Government Act 1972 (c. 70) apply for the purposes of an Inquiry held under this section with the substitution for references to the person appointed to hold the Inquiry of references to the Children's Commissioner."

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

The UK Government ratified the UNCRC in 1991. This is the most widely ratified international human rights treaty, setting out what all children and young people need in order to be happy and healthy. While the UNCRC is not incorporated into UK law, nonetheless it has the status of a binding international treaty. By agreeing to the UNCRC, the Government has committed itself to promoting and protecting children's rights by all means available to it.

The legislation governing the operation of the OCC requires us to have regard to the UNCRC in all our activities.

In relation to school exclusions, and in particular to addressing inequalities in the rates of exclusion for different groups, the articles of the UNCRC that are of most relevance are the following:

- Article 2: All rights apply to all children whatever their ethnicity, gender, religion, abilities, whatever they think or say, and whatever type of family they come from.

- Article 3: The best interests of the child must be a primary consideration in all actions.

- Article 12: Every child has a right to express their views regarding all matters that affect them; and for these views to be taken seriously.

- Article 23: Children with a disability have a right to special care and support to live a full and decent life, with dignity and independence.

- Article 28: Every child has the right to an education […]. Discipline in schools must respect children's human dignity.

- Article 29: Children's education must develop each child's personality, talents and abilities to the fullest.

Acknowledgements

Background

Scope of the Children's Commissioner's Inquiry into school exclusions

The Inquiry, of which this report forms a part, has examined the following areas:[5]

- the factors that influence schools' decisions to exclude (both permanently and for fixed terms), and their interaction with other public services whose interventions, in partnership with the school and the family, might otherwise have helped to avoid exclusion;

- the impact of legislation, government policy and regulation on practice in schools and other educational settings;

- the impact of the support, monitoring, challenge and intervention mechanisms available to both schools and pupils from Local Authorities, church authorities and academy trusts and sponsors on schools' exclusion practices;

- the effectiveness of provision in and out of school and support aimed at preventing exclusions, particularly any that is actively targeted at helping those groups who are statistically most likely to be excluded;

- the characteristics of children who are disproportionately more likely than their peer groups to be excluded; the interaction between these characteristics where it can be ascertained; and, if the characteristics can be ascertained and analysed, any proven reasons why these groups appear more likely to be excluded;

- the impact of the existing equality and diversity duties on schools, and the imminent enactment, through schools, of the particular PSED in the exclusions system as outlined by the Equality Act 2010; and

- examples of good practice in managing children identified as being at risk of exclusion, and equally good practice in reducing any variation in exclusion rates between different groups of pupils. In particular, this report examines the potential for this good practice to be spread more widely and to influence policy.

Background and work to date

In July 2011, the OCC launched its first formal Inquiry into the issue of exclusions from school. This Inquiry was prompted by the publicly available data on those children who were, and were not, excluded from school. According to national statistics, certain groups of children and young people are disproportionately more likely to be excluded. This has been the case for as long as data on exclusions have been collected.[6] Given that for a permanently excluded child the effects of exclusion can be long-lasting, they are matters for concern and, more importantly, for action.

The OCC conducted its Inquiry between July 2011 and March 2102, concluding with a report, published in March 2012, entitled ""*They Never Give Up on You".*

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5   Sections of the scope for the broader inquiry that are not relevant to this strand of work have been removed.

6   Annual statistics have been published since 1998 showing these inequalities.

The Inquiry took evidence from a large range of individuals and organisations, on a large number of issues relating to exclusions from school, including why the rates of exclusion are so different for different groups of young people, and what could be done to address them.

At our request, the DfE analysed the available data to demonstrate the relative importance of these characteristics, both comparing one with another and considering them in combination. These analyses showed the individual effect each characteristic has on the likelihood of a child being excluded. They also showed that the compounded differences can be enormous.

To illustrate the impacts on individual children, *"They Never Give Up on You"* described two hypothetical young English people: Jack and Jill. They are the same age, and attend the same school. They have the same rights under the Human Rights Act and the UNCRC.

- Jack has SEN, assessed at School Action Plus. He is of Black Caribbean background, and lives in a low-income household. He receives free school meals.

- Jill does not have SEN, is from a White British background, and lives in a more affluent household.

The DfE's analysis of the data showed that Jack is *168 times* more likely than Jill to be permanently excluded from school before the age of 16, and *41 times* more likely than she is to be excluded for a fixed term.

"They Never Give Up on You" considered these data deeply concerning. Equally, we were deeply concerned by the fact that these differentials have been known about and recorded for many years without any specific steps having been taken to address them, either in policy or practice.

The report recommended that schools' work to implement their statutory duties under the Equality Act 2010 must include efforts to reduce the differentials in exclusion rates between different groups. It further recommended that all public bodies working in education, bound by the same duties, should consider how best to address these differential rates of exclusion in their own work in implementing their equality duties.

The evidence collected in the first year of the Inquiry did not give confidence that schools would carry out this necessary work without further insistence by government. Given that these duties are statutory, the report recommended that the DfE should work together with the Government Equalities Office and the EHRC to produce best practice guidance for schools and other public educational bodies in interpreting their duties under the Equality Act 2010 with regard to exclusions. It further recommended that an assessment of how schools are implementing these duties should form part of the criteria by which Ofsted inspectors judge schools.

The expertise of the school workforce with regard to SEN, cognitive and emotional development and cultural difference was also identified as a key issue. Almost every school has a proportion of children with SEN, and practically every teacher will be required to teach children with some type of SEN in the course of their career.

In addition, in many parts of England, children from a diverse range of backgrounds in terms of ethnicity, faith and culture populate our schools. The report concluded that a lack of understanding about how to manage children who have differing abilities and cultural and relationship expectations can lead to confrontations between teachers and children, increasing the likelihood of specific groups of children having disciplinary problems, exceeding boundaries and thresholds, and ultimately being excluded.

"They Never Give Up on You" therefore recommended that the requirements for providers of ITT should include a requirement to prepare all NQTs to teach children with the full range of SEN that they should expect to find in a mainstream state-funded school. It also recommended that all trainee teachers should be trained to understand the cultural and other differences commonly found in English society and schools, and should study child development and socio-psychological matters such as attachment theory. Serving teachers and non-teaching staff should be expected to train and to refresh their knowledge in a similar fashion.

The report considered that it is likely that this would make the school workforce better equipped to succeed with England's diverse population of children.

Rationale for this report

While *"They Never Give Up on You"* identified a number of the issues relating to inequalities in school exclusions, the report also identified a number of areas for further examination, which the OCC was not able to complete in the first year of its Inquiry.

The Children's Commissioner concluded that further work was needed in the following two areas:

- a further examination of the reasons for disproportionate rates of exclusion for certain groups, and an examination of what constitutes good practice in reducing exclusions for these groups; and

- a further examination of unlawful exclusions (often also described as "unofficial" or "informal" exclusions), which were identified by the OCC in the first year of the Inquiry as a significant issue for a minority of young people.

This report represents the outcome of further work on the first of these themes. A report on unlawful exclusions will be published later in the year.

Inequalities in exclusion rates remain an important issue, one that merits further examination and will continue to do so while these inequalities continue to be so marked. Since the publication of "*They Never Give Up on You*", a further set of exclusions data has been released by the DfE.[7] These figures relate to the 2010–11 academic year and are used throughout this report. The data demonstrate that, while exclusion rates overall continue to fall, and while in certain cases (for example relating to exclusion rates for some ethnic groups) inequalities have narrowed slightly, they still remain substantial.

The OCC has a statutory duty to protect the rights and interests of all children and young people in England. In doing this, we must have due regard to the UNCRC. Article 2 of the Convention states that:

> *"States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*
>
> *States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members."*[8]

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7   Ibid.

8   www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.OPAC.GBR.CO.1.pdf

We concluded in *"They Never Give Up on You"* that, in law, the system of regulation and guidance regarding school exclusions in England applies equally to all children and young people in state-funded schools, and as such is compliant with Article 2. However, it is clear from an examination of the Government's own statistics on over-represented groups that not all children are equally likely to be excluded. Under this article, states must ensure that children enjoy their rights without discrimination. They have an obligation to take the measures necessary to ensure that this happens. The report recommended that schools, all school operators, local and central government should consider how best to address inequalities in exclusion rates in their approaches to meeting the requirements of this article.

Exclusion from school is only one of a number of educational and other life outcomes that are disproportionately worse for many of the groups discussed in this report. For example, at GCSE level:[9]

- 61.9 per cent of girls achieved five or more A*–C grades in English and mathematics compared with 54.6 per cent of boys;

- pupils of Traveller of Irish Heritage and Gypsy/Roma origin had the lowest attainment rate of any ethnic group; and

- pupils eligible for free school meals underperformed those who were not eligible.

Young people who were eligible for free school meals in Year 11 were more likely to be not in education, employment or training (NEET) between the ages of 16 and 19 than those who were not eligible. At ages 16 and 17, the difference between these two groups was relatively stable (approximately 10 percentage points), but by age 19 this difference had doubled (approximately 20 percentage points).[10]

Outside education, these inequalities remain. The youth unemployment rate has increased at almost twice the rate for Black 16- to 24-year-olds than for the population as a whole since 2008. Young Black men are the worst affected of all, according to a gender breakdown contained within the data supplied by the Office for National Statistics. Unemployment among young Black men doubled in three years, rising from 28.8 per cent in 2008 to 55.9 per cent in the last three months of 2011.[11]

With regard to housing, ethnic minority households were more likely to live in homes with damp (11 per cent) than were White households (6 per cent). Ethnic minority households were also significantly more likely to live in homes with significant levels of disrepair.[12]

In addition, these issues overlap – two or more of these poor life outcomes will, in many cases, be linked to the same individual, creating a life of multiple deprivation.

Experts working in education have repeatedly told the Inquiry that the behaviour that leads to exclusions cannot be addressed by schools working alone:

> *"You are talking about kids that don't feel safe at home. Who don't have anywhere warm to sleep, or shoes that fit. Are we really surprised that they act up at school? I'm amazed half of them turn up at all."*

Headteacher, secondary school

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9   Statistical First Release: GCSE and Equivalent Attainment by Pupil Characteristics in England, 2010/11. DfE, February 2012.

10 Youth Cohort Study and Longitudinal Study of Young People in England. Office for National Statistics, 2010.

11 Office for National Statistics, March 2012.

12 English Housing Survey: Households 2010–11. Department for Communities and Local Government, July 2012, p 94.

This has been echoed by the young people themselves:

"I didn't really get anywhere at school. I missed loads 'cos they [parents] didn't bother telling me to go and when I did go I'd be worrying what was happening at home. When it came to exams I never did any revision – you couldn't in our house – there was always something going on."

Girl, age 17[13]

Given the long-recognised interconnected nature of the issues involved, and the long-term impacts these outcomes can have on the individuals concerned, it is both clear and widely accepted that the inequalities at the root of the problem are issues that cannot be addressed by schools alone. Wider societal interventions should be undertaken on several fronts.

Much has been written and discussed regarding the wider societal causes for poor life outcomes disproportionately affecting certain groups. The literature was discussed at length in *"They Never Give Up on You"*. We do not propose to revisit this literature as part of the current report, but would remind all readers that our work on this issue does not sit in isolation. It is not new. It remains a deep concern for society as a whole, given that it would appear we know a lot about it but as a nation we are either unable or insufficiently motivated to address it on the behalf of children. Children are unable to do this for themselves, so the moral responsibility for action rests with adults.

While accepting that there is a limit to how much schools can counteract wider societal factors, they (along with every other statutory service) do have a responsibility to address the elements that they are genuinely able to tackle. They may not be able to solve, completely and irreversibly, the problems of every child. However, at a minimum, they *are* responsible for ensuring that their own behaviour does not add to these problems – whether they are acting consciously or unconsciously. More than this, they can, and all over the country they often do, act significantly to improve outcomes for these pupils despite the wider factors governing schools and shaping children's lives both inside and outside them. Many schools already do great work with challenging and troubled children and give a very high priority to ensuring that every child they work with can achieve, whatever their personal circumstances. We examine what makes these schools so effective in this report and identify how what they do can be spread more widely. We also look at the barriers that exist to other schools following the example of the best.

This report uses the newly available DfE data and a range of other evidence to examine further the issues raised but not concluded in the report on our first year of this Inquiry. It makes recommendations for how statutory and other bodies can improve their practice to match the best.

Our intention is, as in all our work, that this report will increase understanding of, and engagement with, this issue. We want to help schools take practical steps to ensure that all children are able to exercise their right to an education which develops them to the full. This will help the school system ensure that outcomes become more equal across all sections of the pupil population. It does this by focusing on the following two areas:

- **Best practice in schools:** The situation regarding inequalities in exclusion rates is not uniform across England. Outcomes differ significantly between localities, and even between individual schools in the same locality. This report examines the characteristics of good practice at school and locality level, and examines how this practice can be adapted for and used in more settings.

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13 Children's Needs – Parenting Capacity. DfE, 2011, p 184.

- **Best practice in teacher training and professional development:** In the first year of our work, we identified the training and development of the school workforce as a very powerful lever for change in this area. It is a cliché in educational discourse, borne out by what is found in practice, that the quality of a school system cannot exceed the quality of its teachers. This is as true for schools' work on improving outcomes for "difficult" children as it is for other areas of practice. A deep and deftly applied understanding of the different needs of what research indicates is an increasingly complex and diverse pupil population enables teachers to adapt their teaching styles accordingly, and to manage behaviour better. Together, as many schools recognise, these approaches improve pupils' attainment and their outcomes in a wide range of other areas, including a reduction in the number of behavioural incidents that lead schools to consider the need to exclude. We examine the characteristics of good practice in this area. We also examine the incentives and barriers in place to encourage or prevent teachers accessing training and development opportunities in this area.

Statement of principles

In *"They Never Give Up on You"*, we drew up a set of 10 key principles underpinning our work on school exclusions. These principles have also guided the development of this report.

- Schools must be safe places for all members of the school community.

- All children have a right to be safe, including those who have been excluded from school.

- The rights of all children must be upheld.

- Adults must, in line with the UNCRC, protect the rights of children where children cannot do so on their own behalf.

- The interests of the child at risk of exclusion, and of the other children in the school, must be a primary consideration at all times.

- The system of exclusions must ensure equality of opportunity for all young people and their families, and seek out and address discrimination.

- The principle of natural justice must be a key consideration. In practice, children should have:

  – a meaningful, proportionate right of redress when it is clear that exclusions are unjust, unlawful or disproportionate; and

  – the right to participate, in an informed, supported and appropriate manner, in the process of exclusions, including the right to seek redress on their own behalf.

- Exclusion from a particular school does not mean exclusion from education as a whole.

- Schools do not operate in isolation. They are part of a wider community, and should work collaboratively with other members of that community.

- The exclusions system must be based on evidence of what works for children and young people.

Expert Advisory Group

This Inquiry's work has been steered by a group of experts, who acted as a "critical friend" to the Children's Commissioner and advised on all aspects of the work. They were:

- Alison Garnham, Chief Executive of the Child Poverty Action Group;

- Professor Carl Parsons, Visiting Professor of Social Inclusion Studies, University of Greenwich;

- Robin Richardson, formerly the Director of the Runnymede Trust, and an independent consultant on equality in education (Robin was also a member of the panel that worked on *"They Never Give Up on You");* and

- Philippa Stobbs, Assistant Director of the Council for Disabled Children and an expert on SEN and disability.

Methodology

In the production of this second year's report, we have revisited the evidence collected for year one of this Inquiry, as well as using a wide range of different techniques and avenues (set out below) to collect further evidence both to back up and/or challenge what we found last year, and to inform our conclusions. These methods and techniques are detailed in the sections below.

Written call for evidence

The second year of work on this Inquiry was launched in summer 2012 with a call for written evidence to be submitted by organisations and individuals working anywhere in the field. This call closed in November 2012, although we have received, and have taken account of, a number of submissions after this date.

Submissions are available, should readers wish to consult them, in accordance with the publication scheme set out on the Children's Commissioner's website,[14] except where respondents have requested that they not be published.

In many cases, the evidence submitted through this channel represented personal or organisational experience and opinion rather than formal academic research. Where this material is reproduced throughout this report, it is presented in the terms that the information was presented to the Inquiry – that is, captured and reported verbatim where possible.

Our statutory remit prevents us from intervening directly in individual cases. As a result, we have been unable to corroborate a number of the individual case histories submitted. Many of them are detailed and were submitted with supporting documentation. Where they are used in this report, we make clear that they represent only one view of a possibly complex situation.

Bilateral evidence sessions

We met a large number of key statutory and non-governmental stakeholders throughout the course of this work, and used these meetings to gather evidence, corroborate evidence gained from other sources, and test hypotheses. The organisations who took part in this work included:

- central government departments and agencies, including Ofsted, the Office of the Schools Adjudicator, the Education Funding Agency and the Teaching Agency;

- school operators, including academy sponsor bodies, faith groups and Local Authorities;

- teacher organisations;

- organisations representing non-teaching school professionals such as parent partnership networks, education welfare officers, educational psychologists and others; and

- charitable organisations that campaign on behalf of particular over-represented groups, or that provide services to schools.

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14 www.childrenscommissioner.gov.uk

Field visits

Between September 2011 and January 2012, the Children's Commissioner, members of staff from the OCC and members of the advisory group for this work made a number of field visits. Typically, these visits focused on one locality (usually one or two Local Authority areas). The team visited mainstream primary and secondary schools, special schools, pupil referral units (PRUs) and alternative educational provision across England. On each occasion, the Inquiry group met a range of stakeholders, always including the children and young people attending the provision. In total, several hundred young people spoke to the Inquiry. The following areas were visited:

- two diverse outer London boroughs;

- a rural county in the South West of England;

- a large county in the South East of England with a mixture of urban and rural communities and a wide spread of income groups; and

- a county in the East of England with a mixture of affluent and disadvantaged communities.

These areas included some with a large number of schools already converted to academy status, and others where there were very few academies. It also included two areas that retained selection at age 11 and grammar and non-selective schools. In order to encourage openness and transparency, as well as to protect the identity of the young people we spoke to (many of whom were vulnerable for a number of reasons), the exact locations of the visits are not specified when cited in this report. Instead, we have identified the type of setting, the job title of the individual(s) we spoke to (or the age of the young people) and the region. Evidence gathered on field visits during the first year of the Inquiry is also used in this report.

Data requests

Using the Children's Commissioner's powers as outlined above, requests were made for additional data on exclusions. These are data held by the DfE but not routinely published:

- a comparison of exclusion rates for schools rated "Outstanding" or "Good" by Ofsted with those rated "Satisfactory" or "Inadequate";

- a breakdown of exclusion rates by different school characteristics;

- a multi-variant analysis of published data for permanent and fixed-term exclusions; and

- a comparison of exclusion rates between academies and maintained schools with the same pupil characteristics as academies;

- an examination of the reasons given for excluding children from different demographic groups; and

- an examination of the characteristics of children with SEN who are excluded (i.e. which types of SEN do they have).

Input from children and young people

Throughout the Inquiry, children and young people have advised the Children's Commissioner on the priorities for the Inquiry and on the impact exclusion has on their lives. As set out above, we spoke to children and young people in every setting we visited in the course of this work. The Children's Commissioner's young people's advisory group, Amplify, has been involved extensively, and three

members of this group attended meetings of the project-specific young people's advisory group (see below). They advised the Inquiry on:

- its scope and terms of reference;

- their views on issues surrounding exclusions;

- the relevance of initial findings to the lives of young people, and how best to communicate the findings to a young audience;

- the appointment of an organisation to run a project-specific children's and young people's advisory group (see below); and

- the appointment of organisations to conduct primary research on the OCC's behalf.

A tendering process was undertaken to establish a reference group of young people who had been excluded or who were at risk of exclusion. The contract to deliver this aspect of the Inquiry's work was won by the Runnymede Trust, a charity that acts as the UK's leading race equality think tank. The group convened by Runnymede has advised the Children's Commissioner throughout on:

- the relevance of emerging findings for children and young people at risk of exclusion, and their relative importance from their unique perspective as children and young people personally affected by the issue under investigation; and

- the most effective ways in which to present the Inquiry's findings to children and young people.

Around 20 young people (aged between 9 and 16) have taken part in the course of the Inquiry, from London, the East Midlands, Yorkshire and the South East. They have worked together as well as giving their own experiences and opinions, and have informed and worked directly with staff of the OCC as well as with Runnymede to inform this year's work.

Primary research

In 2010, the NFER was commissioned to carry out research on behalf of the OCC, investigating young people's views of the education system. They interviewed a representative sample of 1,957 young people between the ages of eight and 17 in schools across England during October and November 2010, the report being published in the spring of 2011. This quantitative research was then supported by a series of focus groups. One of its findings – that while 80 per cent had experienced disrupted learning caused by poor behaviour, 90 per cent considered that exclusions should never be a consequence of that behaviour but schools should instead help children solve their problems – was a key reason for launching this Inquiry, and its conclusions have informed the Inquiry throughout.

For this strand of work, following an open tendering process, a team from the University of Sussex was commissioned to undertake a primary research project looking at best practice in inclusion in schools and teacher training providers. They have spoken to a number of key leaders in schools, Local Authorities, teacher training providers and other relevant stakeholders.

Their findings are quoted throughout this report. In addition, the full report of their research is included at Annexe A to this report.

In addition, the NFER has carried out a further two pieces of primary research on our behalf.

Firstly, their annual Teacher Voice omnibus survey for 2012 carried a number of questions on behalf of the OCC relevant to this work. These questions examined:

• teachers' views of why certain groups were more likely than others to be excluded;

• their own experience of teaching these groups; and

• their views and experience of training and development on issues relating to inclusion, diversity and inequalities.

The questions asked and the responses given are available in full at Annexe B.

Secondly, the NFER conducted a number of group interviews and focus groups on our behalf. These were with teachers, school leaders and other school-based, non-teaching professionals such as educational psychologists and education welfare officers. These groups examined similar topics to those examined through the Teacher Voice survey.

The report provided by the NFER relating to these groups is available at Annexe C.

Illegal exclusions

As set out above, this report represents the outcome of one of two strands of work being undertaken on school exclusions. The other relates to the use of illegal exclusions (also known as "unofficial, "informal" or "back-door" exclusions). The evidence-gathering processes for these two strands of work have happened concurrently between April and December 2012. Our report on illegal exclusions will be published later this year.

In the course of this work, we have found evidence that there are clear and troubling inequalities in the characteristics of pupils who are excluded illegally from school. There is substantial overlap between the groups disproportionately excluded formally and those who are most likely to be excluded illegally.

For the sake of clarity and the avoidance of confusion, this current report on inequalities deals exclusively with *formal* exclusions. We will discuss inequalities in *illegal* exclusions in our second report.

Statistics on inequalities in school exclusions

Since the publication of *"They Never Give Up on You"*, a further annual round of exclusion statistics has been published. Throughout this report, exclusion figures refer to those for the 2010–11 academic year, unless otherwise stated. At the time of writing this is the most recent school population cohort for whom national statistics are available.

This further year of data shows that the gaps in exclusion rates between some of the over-represented groups have narrowed slightly. For example, in 2009–10, students with statements of SEN were seven times more likely to be permanently excluded than those with no special needs. In 2010–11 this had reduced to six times. Similar improvements were also recorded in the rates of exclusion for different ethnic groups.

This narrowing of some gaps, although slight, is to be welcomed, as it represents an appreciable difference over the course of one school year. However, we would caution against assuming that this trend will continue without additional intervention. Our caution is expressed for three reasons.

Firstly, these trends are historically intractable. It may be the case that this change represents little more than a statistical "blip".

Secondly, we consider, after reviewing all the evidence presented to us, that changes in the education policy landscape may carry a risk of increasing inequalities in the future, for reasons set out in detail later in the report. This welcome trend may therefore be reversed.

Finally, while some gaps look as if they may be closing, they remain unacceptably large. Further efforts should be expended on attempting to close them, and the system cannot assume that they will close on their own.

We share Ministers' conviction that a child's background should not limit our shared expectations of their achievement. We believe that this holds as true for behaviour as for academic attainment. We therefore recommend that all parts of the education system that disproportionately and adversely affect the most vulnerable children remain priorities for action. This includes the large differences in rates of exclusion.

The groups[15] statistically found to be at highest risk of being excluded are detailed below.[16]

Special educational needs

Pupils with SEN are nine times more likely to be permanently excluded than their peers who do not have these needs. In 2010–11, the approximately two per cent of pupils with statements of SEN were six times more likely to be formally and legally excluded than those with no level of SEN.

Pupils with SEN who were part of a larger group in the school population, the 18 per cent with SEN but without statements, were nine times more likely to be permanently excluded than those with no SEN.

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15   These refer only to groups for whom verifiable data are available. For other groups protected by the Equality Act 2010, such as lesbian, gay, bisexual and transgender (LGBT) children, no such data are collected. It is therefore impossible to tell whether these groups of children are disproportionately likely to be excluded.

16   Source: Statistical First Release: Permanent and Fixed Period Exclusions from Schools and Exclusion Appeals in England, 2010/11. DfE, 2012.

Three-quarters (74 per cent) of all permanently excluded children, according to the same statistical analyses, are proven to have some form of identified SEN.

Ethnic origin

The rate of permanent exclusion among children of particular ethnic origins is detailed in the DfE's statistical returns. Exclusion rates in some groups of children are much higher than those in others. For clarity and avoidance of confusion, the terms used in this report to describe ethnicity are those used by the DfE in compiling statistics.

In 2010–11, formal and legal exclusion data categorised by the ethnic origin of those excluded showed that, as in many previous years, the highest rates were among children from Gypsy and Roma Traveller backgrounds, Irish Travellers, Black Caribbean, and Mixed White/Black Caribbean children.

Black Caribbean pupils were more than three times more likely to be permanently excluded from school in 2010–11 than the school population as a whole.

The rate of fixed-term exclusion was also higher for these ethnic groups. Seventeen per cent of Irish Traveller children, 15 per cent of Gypsy and Roma Traveller children and 11 per cent of Black Caribbean children received such an exclusion, compared with fewer than five per cent of children as a whole. Differences in exclusion rates are marked if excluded pupils' gender and ethnicity are examined together.

In the statistics available for 2010–11, Black Caribbean boys were 11 times more likely to be permanently excluded than White girls of the same age in similar schools. The same boys were 37 times more likely to be permanently excluded than Indian girls, who had the lowest rate of exclusion in the entire system.

In the same year, Gypsy and Roma Traveller and Irish Traveller children were four times more likely to be permanently excluded than the school population as a whole.

Gender

The permanent exclusion rate for boys in 2010–11 was more than three times higher than that for girls. Boys represented 77 per cent of the total number of permanent exclusions from school.

The fixed-term exclusion rate for boys was almost three times higher than that for girls. Boys accounted for 75 per cent of all fixed-term exclusions.

Children on low incomes

The final group of children who are disproportionately likely to be excluded from school are those from families living on low incomes. In education, the standard proxy measure used to estimate the numbers of low-income families is the child's eligibility for free school meals, although other measures such as the index of multiple deprivation are used occasionally. The DfE's published data[17] show that children eligible for free school meals are around four times more likely to be permanently excluded, and around three times more likely to be excluded for a fixed term, than children in their cohort who are not eligible for free school meals.

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17 Ibid.

Statistics on the characteristics of the school workforce

Using publicly available data collated by the Office for National Statistics on behalf of the DfE, we have examined the demographic characteristics of the teaching workforce in England. We consider that it is important that the teaching workforce should be, as far as possible, increasingly representative of the pupils they are teaching and of the child population across the country. This is important as it will enable greater understanding by teachers of the challenges faced by children from certain groups. It also demonstrates to young people that high-status professions such as teaching are open to all, potentially raising some challenged communities' expectations and aspirations of what can be achieved.

The most recent statistics available[18] show the following:

Gender

- 73.2 per cent of teachers and 65.2 per cent of headteachers are female. 93.4 per cent of teaching assistants are female.

Ethnicity

- 93.6 per cent of teachers in service were recorded in the White ethnic groups. Asian teachers made up the next largest group with 3.0 per cent of those in service. Black Caribbean teachers made up 1.8 per cent of those in service followed by Mixed White/Other (0.9 per cent).

- 97.6 per cent of headteachers are White.

Social class or income

No data are collected centrally on the social class of teachers. However, being a graduate is a requirement for the achievement of Qualified Teacher Status (QTS) and has been for many years. It is therefore reasonable to assume that almost all teachers will be graduates. The average income of a full-time teacher in England is £34,000,[19] compared with a national average income of £26,500 for full-time workers.[20] In addition, by definition (i.e. because they are working as teachers), their children will not be eligible for free school meals.

As can be seen, the teaching workforce in England is disproportionately female, white and affluent in comparison with the pupil population.

Many young people have told us that this has an impact on teachers' understanding of their situation.

> *"Some teachers will have that opinion that if you're poor, then you're going to be naughty – 'so let's treat them that way!' But there'll be some teachers who've grown up in poverty and then say 'Right, I know what to do [here].'"*

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18 School Workforce in England, November 2011. DfE, 2012.
19 Ibid.
20 Annual Survey of Hours and Earnings, 2012 Provisional Results. Office for National Statistics, November 2012.

Best practice in schools

This chapter sets out the characteristics of best practice in managing the needs of a diverse pupil population who come into English schools with varying individual needs. It also sets out the barriers that exist to more schools adopting the practice seen in the best, and makes recommendations as to how these barriers to development and system-wide learning can be broken down. Finally, it addresses explicitly discriminatory practice that the OCC has identified in a small minority of schools, and recommends that the Government takes steps to prevent such practice recurring.

In this chapter, our focus has been on approaches to inclusion across all aspects of a school's operation, rather than focusing purely on what a school does to "manage" poor behaviour and its disciplinary approach. While behaviour management is a vitally important part of a school's role, it is only one of many ways in which schools become inclusive environments.

Rather, our work has focused on the ways in which schools identify, and meet, the needs of individuals or particular groups of children. This is not about giving particular individuals or groups "special treatment", as it is sometimes portrayed in sections of the media. Rather, there is evidence that some children will need more support than others to access the curriculum, or to conform to the behavioural norms that are essential in the effective management of a school. The best schools have clear expectations of both their students' behaviour and academic achievement. They see the two as inextricably linked, and that a strong and positive climate with regard to behaviour and discipline is usually linked to how well pupils achieve. However, they are aware that some students need more support than others to meet these expectations, and are willing to do whatever it takes to offer this support.

We have also examined the ways in which schools make efforts to ensure that all their students, regardless of background and their particular needs, feel valued as part of the school community. As one headteacher told our researchers:

> *"They need to feel part of the school – that's what 'inclusion' is – not ticking boxes on a diversity chart. They need to feel we'll do right by them and that they'll do right by us."*

The evidence collected suggests that, where this is done well, it makes a significant contribution to levelling the playing field for different groups of pupils, including reducing exclusion levels. This is echoed by the views of many of the young people we spoke to.

> *"At [names previous school] they just saw me as a trouble maker. This place is different. They give you far more chances here."*
>
> *Boy, Year 9, East of England*

It is important to state at the outset that we have found no evidence that the governance structures of schools make a systematic difference to their approaches to this issue. We are aware of a range of claims and accusations that academy schools are less inclusive than others, exclude more readily and regularly, or do not admit difficult or challenging pupils in the first place. However, we have found no evidence to support these claims. We have witnessed, and received clear evidence and reports of, both good and poor practice in all types of school. While early "sponsored" academies initially excluded at a higher rate than maintained schools with similar intakes, the demographic profile of the children excluded by these schools was the same. Data for the exclusion rates of "converter" academies – before and after conversion – are not yet available.

Given how early we are in the change programme, we recommend that the statistics for exclusion rates from "converter" academies should be monitored carefully over time, and any differentials that become apparent should be addressed robustly.

It is also worth considering that the historical inequalities in exclusion rates for different groups, along with other inequalities of outcome, existed in a landscape that was comprised almost completely of maintained schools for years before academies began to appear.[21]

However, we have concerns that the increased freedoms being given to academies and free schools carry a risk that poor practice is less likely to be identified and addressed in the future, and that there is a gap in the accountability structure and associated practice for schools in localities. While the majority of headteachers, governors and trustees of schools of all types will continue to act in the best interests of all their students, we are concerned that the minority who do not are less likely to be identified. This is discussed in more detail later in this chapter.

Characteristics of good practice

Through all our work, we have aimed to identify those schools that demonstrate best practice in holding on to children who, in other schools, may have been excluded. We have identified these schools through reference to their exclusion rates, from inspection reports, and from recommendations from professional and statutory bodies. We have identified the following characteristics of good practice in inclusion in schools.

Good practice is about ethos and behaviour, rather than written policies and governance structures: In many schools, we met a leadership team and other staff who shared a strong ethos of wanting to do everything they could to make sure that all their pupils achieved. In many cases, this meant going well above and beyond the call of duty to keep young people in school when other schools would have decided to exclude them.

One headteacher told us:

> "I don't really like using the word 'mission', but that's what we are on here – a moral mission. These kids don't have anybody else."

There was a very clear sense of personal responsibility for their students, with a concomitant view that excluding a child meant that they had failed. This did not necessarily mean that they refused to exclude under any circumstances. However, exclusions were seen as a sign that the school needed to review its approaches, rather than the school assuming that the fault was all with the child and the child's behaviour.

Inclusion is part of the school's core purpose, rather than being seen as an "add-on" or "optional extra": In the best schools, ensuring that all students are able to be full members of the school community is seen as being central to every element of the school's work. In particular, it is viewed as being intrinsically linked to a school's academic attainment. The same schools were characterised by a strong and unflinching determination to listen to the voice of the child, and to train children and young people to express their views about their lives and the decisions being made about them in influential and mutually respectful forums, and to take pride and ownership of

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21 The UNCRC, including the principle of non-discrimination, applies to all bodies (including private institutions) delivering services on behalf of the state.

their school lives and their aspirations for a successful future. Headteachers describe this in terms of "enlightened self-interest" on behalf of both adults and children. One told us:

> "We don't just do this because we're nice people – although we are. Engaged kids learn better. If we can meet their needs, they'll work harder and our figures will improve."

Again, this is echoed by the young people we spoke to in these schools. One told us:

> "It's all just a bit easier now. Before, I would get angry and kick off and end up missing a load of stuff 'cos I was never in class. Now I can keep up, and I'm getting much higher levels."
>
> *Boy, Year 10, outer London PRU*

As part of this generally positive ethos and way of working, headteachers in the best schools talked repeatedly about their need to be flexible regarding their methods. One spoke extremely critically of other local schools, and indeed those further afield, which were inflexible in their approaches:

> "I can't stand this approach that the children must adapt, not the school. Doctors don't demand patients 'adapt', or blame them for their ailment. If something isn't working you try something else. You don't just do more of the same thing that's already not working and blame the kid for it not working."

Effective leadership, which is unafraid to change environment and practice: In many settings, we encountered extremely strong school leadership, often shared between the headteacher and other school leaders, including governing bodies, whose role was explicitly about challenging as well as supporting the head and senior staff. These schools are extremely clear about what they want to achieve, and how best to achieve it. The clear, consistent message they gave was that their priority was the achievement of their students.

One headteacher told us:

> "In everything we do I drive my staff crazy by continually asking 'Why are we doing this?' But if the answer isn't 'for the good of the students', then we just have to stop doing it."

Knowledge management and the use of data are strong: Schools understand their students' backgrounds and needs, their strengths and weaknesses academically, socially and personally. Data on the achievement and outcomes of particular groups are maintained and referred to. "Soft intelligence" is also strong – teachers make sure that they are aware of and prepared to act where necessary on anything happening in their students' lives outside school that might affect their behaviour, and their learning, in the classroom. All staff have a responsibility to feed in to this three-dimensional practice. In one school, for example, classroom assistants who lived in the community served by the school were instrumental in identifying issues to do with gang "colours" being worn in school, and alerting senior managers who lived elsewhere and were unaware of the significance of the wristbands and other signifiers. This had not been spotted previously by school leaders, and the difference in relative positions in the hierarchy between classroom assistants and senior staff was irrelevant as the school took measures to address the issue.

Teaching challenging pupils is a valued role in these schools: The most challenging classes are given to the most effective teachers. The curriculum is meaningful, purposeful and tailored to both need and ongoing attainment by the pupils wherever the challenges they present have led to them being taught outside mainstream sessions. No class, and therefore no pupil, is written off as "unmanageable". The school takes pride in ensuring that children achieve their potential.

There is an emphasis on early intervention and support for families, as well as for the children concerned: In these schools it is very unusual for a formal, permanent exclusion to be a response to a one-off action by a child who has never previously been in trouble. More usually, the child who ends up being excluded, at the end of a long period of interventions and efforts, will have had a well-documented, lengthy "career" of behaviour issues stretching back years in many cases. The best schools identify issues early on in this "career" and act then, rather than waiting until matters escalate, confrontation results, and a permanent exclusion becomes necessary. Equally, these schools involve families at an early stage. This enables them to maintain good relationships with families, with whom they work to address the child's behaviour. Where something in the child's home life is having a negative impact on their behaviour, the school will involve external support agencies to work with parents/carers to try to engineer a solution for the whole family.

Case study: Practical support for vulnerable students

School A is a large academy serving a disadvantaged area in the South of England. The school has a high public profile for its inclusivity, and, as a result, its intake is even more disadvantaged than would be expected from its surroundings. It accepts a relatively high number of children who have been excluded from other schools.

The school has taken steps to identify those students in most need of additional support, and has provided this support. These are often those children at the highest risk of exclusion. In addition to a full range of educational support services, the school provides practical help for those young people in most need. This includes the ability to wash and dry clothing (many were coming to school in dirty uniforms), a supply of breakfast foods (for those who are not offered breakfast at home), and information on local support services.

There is effective use of external expertise: While these schools feel a strong duty to keep their students in school, they appreciate that they will not always be able to do this alone. School leaders understand the broader context within which they operate and how best to work with it. They are able to encourage joint working, and understand how to make referrals to specialist agencies where required. They are effective and, when necessary, demanding commissioners and consumers of external expertise, both from statutory and non-statutory services. In some cases, they employ non-teaching expertise directly, either as members of staff or on a contract basis, and have clear expectations of what outcomes they wish to achieve. They also routinely work closely with other schools in their community in a spirit of co-operation.

Use of good, local quality assurance of external provision: Where schools use Alternative Provision for their students as a means of improving inclusion, they ensure that this has been properly quality assured. This may (rarely) be done by the school itself; by a collaborative effort across groups or clusters of schools, whether in formal federations or otherwise; by the Local Authority in its statutory role as champion for the family and the child and in co-operation with schools, however these are governed and run; or by another statutory provider. Whoever carries it out, this quality assurance covers:

- the quality of the provision in achieving its declared outcomes;

- value for money and the financial security of the provider;

- health and safety and child protection requirements;

- the regularity of visits from the sending school to the provision to ensure that pupils are receiving the provision that has been bought;

- the quality and relevance of the curriculum and the standards achieved over time; and

- the rates of reintegration into school or college.

Barriers to good practice

While many schools, as we have shown, do excellent work to create and maintain an inclusive ethos in their schools, at times they report having to do this "despite" rather than "as a result of" the broader structures in place in their localities. They have told us that the systems they work within place unnecessary barriers in the way of good practice. In some cases, these barriers are the result of limited resources, or of historical "custom and practice". In others, they are to do with the incentive structure in the education system, or are the unintended consequences of national policy decisions. In this section, we set out the barriers to good practice that have been identified to us, and recommend ways in which their effect could be mitigated.

Availability of external support: In recent years, there has been substantial downward pressure on budgets across the public sector. While the cash value of the Dedicated Schools Grant (DSG) has been protected, reductions elsewhere mean that the grant is now expected to pay for more aspects of a school's work. Over time, the real value of the DSG will be eroded by inflation. While the introduction of the pupil premium grant (PPG) will mitigate this in some cases, in others schools will continue to see real-terms reductions in their resources. At the same time, pressure on Local Authority budgets means that Local Authorities are unable to supply a number of services that they would have supplied previously, whether on a part-traded basis or otherwise, to schools in their locality. In many areas, the Local Authority would previously have been both the holder of the statutory duty to ensure provision of these services, and the only provider. Professional services to help schools deal with challenging students and their families more effectively, such as educational welfare, family support and outreach or educational psychology, are now much more difficult to access than was previously the case. Headteachers report that they are still usually able to access support for more serious cases and in moments of crisis. However, many schools report that early intervention work has become more difficult to organise.

Some school providers, including academy chains, have responded to this challenge by employing their own professional advisers practising the disciplines concerned, or buying in expertise on a contract basis and at full cost. Where they are in a position to do this, the approach can often be both a tailored and an effective solution. However, this market is still very immature, and provision in many areas of the country is not in place to meet demand. This is a particular challenge where a Local Authority area in a large county serves a scattered rural population, where economies of scale are not sufficient to enable the market to mature as it might elsewhere. These areas are not able to sustain a "critical mass" of practitioners working independently of the Local Authority, meaning that without support and subsidy, children will lose out on services including SEN support, educational psychology and behaviour support.

We acknowledge that there are measures in place to try to ensure that schools pay due regard to inclusion. We also recognise that the large majority of schools recognise their duty to support children, and to provide external support to enable them to do so. We strongly welcome Ofsted's continued commitment to inspecting the extent to which schools embrace inclusion in their work. We also firmly support the Inspecting Inequalities guidance issued by Ofsted to their inspection teams.[22]

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22 Inspecting Equalities: Briefing for Section 5 Inspection. Ofsted, September 2012.

However, an increasing lack of resources, and a mismatch between demand and supply during the period of market development, make it difficult for schools to fulfil this role as many say they wish to do.

Poor quality assurance of Alternative Provision: Many schools use a wide variety of Alternative Provision for pupils severely challenged by a wholly school-based standard curriculum as part of their efforts to avoid excluding such pupils, who inevitably present challenges in school. When run well, such provision can offer a high-quality alternative to mainstream schooling, especially when used for short periods or as part of a mixed menu of provision and locations for such pupils. This enables both pupil and school to have a break from daily difficulties, and for the pupil to receive support, continued education, and personal guidance, which together enable the pupil to re-engage with mainstream education. However, the quality of this provision, as Ofsted and the DfE have recognised in reports in 2011 and 2012, is extremely variable and there is no national framework available for what constitutes "high-quality" provision. This was identified as an issue by *"They Never Give Up on You"* and by the Government's review into Alternative Provision undertaken by Charlie Taylor in 2011. The Government's current view is that schools are best placed to make this assessment. The intention is that this will be their role in the future, with Ofsted inspecting the school's effectiveness as a commissioner of such support and the pupil outcomes achieved. This approach is being piloted through the programme of exclusion trials. We continue to support these trials as an encouraging development.

We agree that, ideally, schools are best placed to know the needs of their students, and to identify the best provision to meet these. However, we have concerns about whether all schools currently have the expertise and capacity to act as expert commissioners – and, where provision is not good enough, expert de-commissioners – without advice and guidance being available from an objective professional source. In addition, it appears to be an inefficient use of resources to have potentially large numbers of schools each independently quality assuring the same alternative provider to slightly different criteria.

As set out above, we consider that such quality assurance is best done, by a body with the appropriate expertise acting on behalf of schools in the locality. We recommend that localities be incentivised to establish such a body where they have not already done so. These bodies should be robust and impartial enough to safeguard schools, which are charged with the deployment and use of public money to discharge a statutory function – schooling – to a standard that will bear scrutiny from Ofsted, the DfE and their communities, including their governors.

We have no view on who should carry out this vital scrutiny role, other than that they should have the necessary capacity and expertise and the necessary authority to direct action as required. The body concerned will vary from place to place. We have seen cases where it has been the Local Authority that conducts this quality assurance as an impartial broker on behalf of schools, whether they are maintained schools, faith schools, academies or free schools, or indeed, as is the case in many localities, they represent a mixture of these governance models. In other places a local headteacher has done this work on behalf of, and strongly backed through a formal agreement with, a consortium of schools. In other areas it has been done by an academy chain. A further alternative model may be as part of the work of Health and Wellbeing Boards, which will have headteacher representation and which have a statutory responsibility to oversee the range of services commissioned on behalf of children and young people. That it needs to be done is the key issue.

Lack of understanding of the law

It has been strongly suggested to us that schools would be substantially more successful in encouraging inclusion, and therefore in avoiding exclusion, if they were more familiar with the requirements of equalities legislation. The most important single concept in this connection is "due regard". The duty to have "due regard" to discrimination has been a requirement for public bodies since 2002 in the case of race and ethnicity, since 2006 in the case of disability, and since 2007 in the case of gender. The requirements relating to race, disability and gender have been combined and harmonised through the Equality Act 2010 and have been extended to several further aspects of difference and diversity, including religion and sexual orientation. Over the years, case law has shown that the concept of due regard requires schools and other public bodies to engage in rigorous and open-minded analysis of the consequences of their policies and decisions.

Schools and other public authorities must have due regard for three needs; these are separate from each other but are closely connected, and none can be addressed adequately without attention to the other two. They are: 1) to eliminate discrimination; 2) to advance equality of opportunity; and 3) to foster good relations. The DfE has explained the concept of due regard as follows:

> *"Having due regard means that we need to think in advance about the potential implications of our decisions, seeking not just to eliminate negative outcomes but also thinking about potentially positive ones."*[23]

The reference here to thinking about maximising potentially positive outcomes is particularly relevant in the current context. This indicates that conducting rigorous and open-minded analysis of policies and decisions involves asking two questions, each accompanied by a follow-up question:

- Could this policy, or does this policy, have a negative impact on one or more of the dimensions of equality, or could it increase inequalities that already exist?

  – If so, how can we change or modify it, or minimise its impact, or justify it?

- Could this policy, or does this policy, have a positive impact on equality, by reducing and removing inequalities and barriers that already exist?

  – If so, how can we maximise this potential?

In addition, the PPG introduced by the present government is centrally concerned with addressing socio-economic inequalities, and in effect requires schools to have due regard not only for the protected characteristics named in the Equality Act but also for disadvantage arising from poverty and low income.

To assist schools and other public bodies in their general duty to have due regard for equalities, there are two specific duties. These are: 1) to publish information; and 2) to publish measurable objectives. Underlying both duties there is a concern that public bodies should be transparent in their decision-making and accountable both to those whom they employ and to those for whom they provide services. The basic aim, as asserted in a Ministerial statement issued on 28 June 2011, is "to support good decision-making by ensuring that public authorities understand how different people will be affected by their activities, so that services are appropriate and accessible to all, and meet different people's needs". The specific duties "ensure that public, voluntary and community

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23 Workbook on equality analysis, updated by the DfE in December 2011 and April 2012. www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0077522/equality-analyses-equias-workbook

sector organisations understand the key inequalities that public bodies are aspiring to tackle and to track progress against them".[24]

Ofsted has indicated that it expects that evidence of due regard for equalities in schools will include features such as the following:

- Before introducing important new policies or measures, the school carefully assesses their potential impact on equalities for its current and prospective students and parents, positive or negative, and keeps a record of the analysis and judgements that it makes. The data are available for public scrutiny.

- Senior staff and governors know about the relative attainment and progress of different groups of students, and monitor their performance and other data relevant to improving outcomes.

- The school tracks and analyses progression information, for example the proportions of students who continue education or training or enter employment, and identifies any barriers for particular groups.

- The school's programme for continuing professional development (CPD) is inclusive of all staff and includes equalities matters, both directly and incidentally, and inspectors can identify clear evidence of the programme's impact at inspection.

- There are clear procedures for dealing with prejudice-related bullying and incidents, and there is appropriate staff training that equips staff to identify and deal with this effectively.

- There is coverage in the curriculum of equalities issues, particularly with regard to tackling prejudice and promoting community cohesion and understanding diversity.[25]

In addition to publishing information of the kind mentioned by Ofsted, schools are required to publish measurable objectives. These should clearly illustrate the real equality improvements that they intend to deliver over the course of the business cycle. They should focus on the key inequalities that the body is in a position to affect, as highlighted in its published information, and identify achievable, measurable improvements.

Ofsted does not explicitly refer to exclusions in its guidance on inspecting equalities. We recommend that its briefing document entitled Inspecting Equalities should, however, indicate that schools are expected to collect and analyse data on their use of sanctions and punishments according to ethnicity, gender, SEN and low income (as measured by eligibility for the PPG).

It was initially intended that statutory guidance on implementing these duties in schools would be published jointly by the DfE and the EHRC. However, at the time of writing this guidance has been referred to the Government's "Red Tape Challenge" and no date has been set for it to be laid in Parliament or to be circulated as statutory guidance to schools. Instead, in December 2012, the EHRC issued technical guidance on the implications of the duties for schools in making reasonable adjustments for pupils with disabilities.[26] It has also published non-statutory guidelines on

24 Equality Act 2010: Public Sector Equality Duty. What Do I Need to Know? Government Equalities Office, 2011.
    www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/equality-duty?view=Binary
25 Ofsted briefing on inspecting equalities, last updated December 2012.
    www.ofsted.gov.uk/resources/briefings-and-information-for-use-during-inspections-of-maintained-schools-and-academies-january-201
    The Equality Duties and Schools, by Graham Bukowski and co-authors. Research report 70. EHRC, 2011.
    www.equalityhumanrights.com/uploaded_files/research/rr70_equality_duties_and_schools.pdf
26 Reasonable Adjustments for Disabled Pupils – Auxiliary Aids Technical Guidance. EHRC.

implementing the duties in schools.[27] We welcome this guidance; however, we have a concern that, as it is non-statutory, its impact will be limited.

In *"They Never Give Up on You"*, we found that schools' awareness of the requirements of the Equality Act was very low. In some cases there was awareness that children with SEN required extra support and flexibility, but this was not necessarily the case for other protected characteristics. We encountered no explicit reference to the 2010 Equality Duties in schools' decision-making regarding exclusions.

One year on, very little seems to have changed in this regard. Again, in the course of the visits we have undertaken for this report, no school has explicitly mentioned the need to pay attention to equality duties when designing behaviour systems or making decisions on exclusions. We also asked respondents to the NFER's Teacher Voice survey how many of them had been made aware by their school of the equality duties. Barely more than a third (37 per cent) said that they had, while 40 per cent reported that they did not know.

In addition, participants in our focus groups were asked about their knowledge of the equality duties and how they impacted on exclusion decisions. Awareness was mixed. However, there was a general view that even where schools were informed of the requirements, they did not necessarily fully engage with them and there had been little impact on teaching.

Throughout our work on this Inquiry, headteachers, teachers and their organisations have consistently informed us that they would welcome further guidance on equality law. Many are concerned that as things stand they may inadvertently be breaking the law and would welcome advice and guidance on how to make sure that they are not. Others are concerned that they will be penalised by Ofsted for not "doing equality" correctly. Schools have told us that they would welcome clearer guidance on how to deal with equality issues so that they can benchmark whether, and in what ways, they are complying with the law. In general, they do not see the availability and use of such guidance as a bureaucratic burden.

Our findings are consistent with those of major research conducted for the EHRC about schools' responses to the duties for disability, ethnicity and gender:

> *"[W]hile many schools have good intentions and believe (often rightly) that they are taking effective action on inequalities, their positive intentions do not always follow the systematic and evidence-based approaches emphasised in the equality duties from which their pupils should benefit. The study implies that the real benefits of implementing the duties for pupils can be further developed… Only a fifth of schools (20 per cent) believed established teachers have received enough training, with 24 per cent saying senior leaders and 22 per cent saying that new entrants to the profession have received enough… Schools would like better guidance on how to design and deliver training related to the equality duties, how to collect appropriate and relevant evidence, and guidance on the duties generally and what they mean for schools."*

Lack of awareness of the law cannot be used as an excuse by schools for unlawful practice. Equally, a feeling that the law is excessive, or misguided, does not mean that those responsible for abiding by it can abdicate this responsibility until such time as it is changed. Headteachers and governing bodies have a responsibility to ensure that they are compliant with all relevant legislation, including equality legislation.

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27 www.equalityhumanrights.com/advice-and-guidance/education-providers-schools-guidance/

We continue to be convinced, however, that the necessary change in schools' behaviour will not take place without intervention from government. The guidance is written and available, and the messages we have received indicate that schools know the difference between needless bureaucracy or red tape and the necessary guidance they want to use in order to do their job well for all children.

We therefore reiterate our recommendation from _"They Never Give Up on You"_ that the DfE should work together with the Government Equalities Office and the EHRC to produce statutory guidance for schools and other public educational bodies in interpreting the Public Sector Equality Duty with regard to exclusions.

Unintended consequences of the school accountability system

Repeatedly, headteachers in schools with exemplary practice in improving inclusion have reported that the incentive structures in place make it more difficult to act in what they consider to be the best interests of the students. One told us:

> *"I'm not judged on inclusion. I'm judged on GCSE results. It doesn't matter how well I do in EAL [English as an additional language], or the fact that the kids are safe here – if you don't hit the floor targets you're stuffed. Luckily, my governing body understands what we are trying to do here. But plenty wouldn't. I know schools where a lot of these kids would be out and our job would be a hell of a lot easier."*

In theory, the fact that exclusion rates are recorded, and the fact that Ofsted takes account of these rates in making judgements about the overall effectiveness of schools, should act as a disincentive to exclude in all but the most clear-cut cases. However, this does not seem to be the case. Instead, headteachers report feeling a much greater pressure to ensure that their place in league tables, or their Ofsted grade, is improved year on year. Many headteachers expressed this sentiment to us and our researchers.

Others felt that Ofsted did not take sufficient notice of exclusion figures in making their assessments. More than one headteacher complained that neighbouring schools with very high exclusions for what they considered to be trivial reasons had been judged to be "good" or "outstanding".

There is a risk that this set of incentives, when coupled with the resource restrictions and difficulties in accessing diminishing specialist support, as set out above, may make schools more ready to exclude than they may have been in the past.

Separately, it appears that some of the emerging models of service provision set out above have also led to a number of unintended consequences and conflicts of interest. Historically, those best able to identify problems in the way a school deals with inclusion, or issues with discriminatory policies or practice, were employed at arm's length of the school, usually by the Local Authority. This gave them a degree of independence from schools and enabled them to raise concerns with those able to address them. Increasingly, however, these professionals, including education welfare officers, counsellors and education psychologists, are employed directly by the school. This puts them in a difficult position, as they would need to challenge directly the methods used by their employer, and in many cases their line manager, if they identified concerns.

We therefore recommend that all school-based professionals should have a clear route of accountability to be able to draw problems to the attention of the relevant external body, without fear of reprisals, if they consider that a school is acting in a discriminatory manner.

Discriminatory practice in schools

As we have said repeatedly, the vast majority of schools act consistently in the best interests of their students, and do so in an inclusive, non-discriminatory way. Many go the "extra mile" for their pupils, ensuring that they achieve to the best of their ability.

However, there is a small minority of schools for which this is not the case. In *"They Never Give Up on You"*, we flagged up practice in a small number of schools that is either directly or indirectly discriminatory and therefore illegal. We have found further evidence of practice of this type in this second year of Inquiry.

This practice includes instances of the following:

- exclusion of children for hairstyles that are overwhelmingly worn by Black boys (for example corn rows);

- rules of dress, appearance and conduct that apply differently to boys than they do to girls;

- rules that take little or no account, in diverse communities, of linguistic, cultural or ethnic differences in, for example, intergenerational respect and how it is to be shown by children in ways that are not always the same as they are in White English society;

- children with SEN or medical conditions being excluded from school, being taught separately from their peers, being banned from extracurricular activities, having reduced access to the curriculum, or otherwise being singled out for negative treatment that sets them apart, for reasons other than discipline; and

- schools failing to offer provision set out in statements of SEN and preventing children from coming to school on the basis that their needs cannot be met.

It is simply unacceptable that any of this is allowed to happen. It creates still further inequalities for already vulnerable children and young people in the schools where it happens. It is also both unprofessional and, in the worst cases, illegal. We will publish in greater detail on the issue of illegality in the second report from year two of this Inquiry. We will formally share our evidence of these activities, which are also a source of grave inequality in the treatment of children and a denial of their rights to education under the UNCRC, with the relevant statutory authorities wherever we have evidence from particular settings.[28] We expect the authorities to take immediate and appropriately robust steps to ensure that such activity no longer takes place. We also intend to register our concerns about these specific schools with Ofsted.

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28 The relevant statutory authorities are the local authorities for maintained schools. For academies, they are both the Secretary of State for Education, with whom such schools have their legal contracts, and the Education Funding Agency.

Best practice in teacher training and professional development

This chapter examines the extent to which NQTs and serving teachers feel well equipped to encourage inclusion. It also examines evidence of how to identify characteristics of best practice in encouraging inclusion as part of ITT and CPD. Finally, it examines how best practice could be more widely disseminated, along with identifying any barriers to doing so.

In common with the issues relating to best practice in the whole of the school's activity, detailed above, this chapter examines ways in which teachers are trained to encourage inclusion in a general sense, rather than specifically looking at issues regarding exclusions. It is our contention, supported by the evidence that we have collected, that teachers and schools that encourage an atmosphere of inclusion for the whole school community are more likely to reduce inequalities in outcomes for their pupils. This will include inequalities in exclusion rates.

In addition, this chapter examines the extent to which teachers feel prepared to manage the learning of a diverse pupil population, and to modify their teaching to ensure that all pupils are able to engage. Again, the evidence suggests that the better this is done, the fewer issues teachers will have with the management of behaviour.

Initial teacher training

Each year, around 30,000[29] new teachers are trained in England. In order to achieve QTS, which is necessary to work in maintained schools, all new teachers must demonstrate that they meet a set of national standards. These standards were revised in 2012.[30] With regards to the need for teachers to engage with a diverse pupil population, the standards state that teachers should:

> *"have a clear understanding of the needs of all pupils, including those with special educational needs; those of high ability; those with English as an additional language; those with disabilities; and be able to use and evaluate distinctive teaching approaches to engage and support them."*[31]

However, as we found during the gathering of evidence for the first year of this Inquiry, the extent to which individual training providers prepare trainee teachers to meet this standard varies significantly. While some providers may offer specific training on teaching pupils with certain SEN, or training on child cognitive or emotional development, these are often optional elements of the training programme. Elsewhere, training providers rely on trainees to learn "on the job" through time spent on teaching practice in schools. Where this is the case, it means that trainees will have encountered pupils from (at most) only two schools, and may not have encountered the full range of diverse needs. Equally, even where they have encountered a diverse range of pupils, if the mentoring they receive in their practice school is not strong, they may not have received any meaningful support in managing the needs of these children.

Each year, the Teaching Agency (formerly the Training and Development Agency for Schools) carries out a survey of NQTs to gather participant feedback. This survey asks NQTs to rate the extent to which aspects of their training have prepared them for their profession.

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29 The exact number differs slightly from year to year, depending on the needs of schools to replace teachers who are retiring or leaving the profession for other reasons, and to reflect changing pupil populations.

30 www.education.gov.uk/publications/eOrderingDownload/teachers%20standards.pdf

31 Ibid.

Overall, NQTs rate their training as being of very high quality; 89 per cent of primary phase trainees and 90 per cent of secondary trainees rated their training overall as "good" or "very good".[32] However, the ratings were significantly lower for assessments of how well their training had prepared them to manage a diverse pupil population. Only 52 per cent of primary trainees and 54 per cent of secondary trainees thought that their training was either "good" or "very good" at preparing them to teach students from Black and minority ethnic backgrounds. Only 49 per cent (for both primary and secondary trainees) felt well prepared to teach children with EAL and only 59 per cent felt well prepared to teach children with SEN.

This picture was reinforced by the focus groups conducted with teachers and other professionals by the NFER on our behalf. One non-teaching professional told researchers explicitly about their concerns:

> *"If you do a PGCE or something you probably get one day's education content on learning difficulties and things like that in your whole course."*

Another teacher told researchers:

> *"even if I think back to my PGCE, which was only eight years ago, there was nothing [on SEN] apart from you followed the school behaviour system."*

It appears that a significant proportion of NQTs feel underprepared to engage with a diverse pupil population. This is concerning, given that these individuals are likely to meet children with a wide variety of needs from the very beginning of their teaching career. Given that increasing numbers of children with a wide range of difficulties now survive traumatic births and their early years and present in classrooms across the country, the need to ensure that the profession and schools are ready for them is very real. The current lack of professional preparedness may very well lead to additional needs not being properly identified or managed, in turn leading to increased instances of poor behaviour, leading to exclusions.

In *"They Never Give Up on You"*, we made recommendations regarding the need to improve NQTs' expertise in managing a diverse pupil population. Specifically, we recommended that the statutory requirements for providers of ITT should include a requirement to prepare all NQTs to teach children with the full range of SEN that they should expect to find in a mainstream state-funded school. Further, we recommended that all trainee teachers should be trained to understand the cultural and other differences commonly found in English society, and therefore in its schools.

Finally, we recommended that all trainee teachers should also study child development and socio-psychological matters such as attachment theory. Serving teachers and non-teaching staff should be expected to train, and to refresh their knowledge, in a similar fashion.

These recommendations were not accepted by the Teaching Agency. In their response to the first Inquiry report, the Teaching Agency instead reiterated a commitment to improving training in behaviour management in ITT.

While we appreciate that teachers need to be able to manage their pupils' behaviour effectively, we do not consider that this is sufficient to address the issues raised above. Improved behaviour management training will help teachers address issues once they arise, or to head off problems before they escalate. However, in many cases, as the best schools whose practice we have seen

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32 NQT Survey Results. DfE, September 2012.

over the course of both years of this Inquiry affirm, poor behaviour is a symptom of a need that is broader, often complex and familial, and equally often undiagnosed and therefore inevitably unmet, rather than being an "issue" entailing a fault on behalf of the child to be dealt with in isolation. If teachers do not have a broad understanding of issues such as SEN, cultural differences and child development, it is likely that these needs will continue to be unmet, and that behavioural consequences will continue to arise, to the detriment of teaching and learning alike. Simply improving behaviour management training could be interpreted as a way of placing all the blame on the child. Understanding and responding to their needs, as the teaching standards require, is a subtler and more balanced response to the issue.

We therefore reiterate the recommendations made in year one of this Inquiry, and urge the Teaching Agency to reconsider its decision not to implement them. As this is a formal report of an Inquiry by this office, we will require a further formal response to this recommendation.

The likelihood is that implementing this recommendation would make the teaching profession better equipped to succeed. It is equally likely that learners' experiences will improve and a diverse school system will have a better chance of flourishing if this recommendation is adopted. The opportunity to close the gap between groups who are and are not likely to be excluded could be addressed successfully by putting this recommendation into practice.

Continuing professional development

The issues set out above regarding a lack of training for new teachers in relation to teaching the key "at-risk" groups hold true for their more experienced colleagues. In focus groups with these teachers, their managers and school-based non-teaching professionals, it was generally felt that there was not enough training available for teachers and other school staff on the key groups at risk of exclusion. Unsurprisingly, there was an overwhelming view that more training was required.

In the course of focus groups with the NFER on our behalf, teachers and other school professionals gave the following views of the quality of the development activity they had received on diversity and inclusion.

Examples of development activities that were listed included "a bit of training on Travellers" (teacher) and child protection training that covered vulnerable groups. References were also made to training on SEN that is provided during ITT or on one-off INSET (in-service training) sessions. In a minority of cases, training had been provided on issues, behaviours or processes that typically lead to or are involved in exclusion, such as conflict resolution or risk assessments.

When participants referred to the lack of available training, they flagged up a lack of activities not just in relation to the at-risk groups, but also to handling challenging behaviour and exclusion processes more broadly.

This lack of training extended to other staff in schools, such as teaching assistants, and to governors. Often, participants felt that training and development activities on diversity and inclusion were done "for the sake of it" in a tokenistic fashion.

They told researchers:

"You might get little CPD professional snippets of training on odd INSET days, should you choose to go to that session or something. But the knowledge is very, very slim. And to be able to expect teachers to then consistently embed that in the way they deliver education, I think, is a big ask."

Non-teaching professional

"There's not enough investment in any sort of training, development or time for managing a situation. You get your lip service INSET day or maybe a CPD session once every two weeks, and for a lot of schools I think that just ticks the box – we've done it. And schools are in a very difficult position because governments do not give anything additional for teachers to get some real training or, indeed, for schools to be able to share ideas. So I don't think that the training is there – it will be there maybe at the start of the year for half a day, you'll do a bit of group work. Then after that there's no real kind of practical on-the-job stuff, not even where you can go and watch someone else, have a buddy system, because there's no one paying for cover or anything."

Teacher

"It would be about cultural differences. Because I have to learn stuff about other cultural groups every other day. There were certain things that I did not know about the Somali group, the Asian group. There are things that I needed to be very, very aware of. Now I didn't get training. I picked up on this as I went along through my working experience. There are some very major cultural differences that we need to be aware of when it comes to supporting pupils. And not all staff are aware. They're not aware. So for me it's about training on cultural differences about other people full stop. And I think that would make all the difference. It really, really would."

Non-teaching professional

When discussing which approaches to training and development had been most effective, the research conducted by the University of Sussex and participants in the focus groups were in broad agreement about what worked. They identified the following characteristics:

- ongoing development from specialist teachers;
- development activity to develop whole-school approaches to inclusion; and
- intensive support with specific special needs.

Ongoing development from specialist teachers

Participants reported that "intensive training" is particularly effective. This included support from teachers from special schools or PRUs. Training delivered through "one-off sessions" was considered ineffective. There was a feeling that, due to budget cuts, there are fewer cases of intensive training.

"I think rather than the generic half-day training, you've had your input on this, the things that have been really useful around those really high-level need pupils are where we've had support from special schools that have actually come in and observed the pupil and will work with the teachers around individual programmes. And that is very intensive but it can make a real difference. If you give somebody an input on EAL for half a day or autism, they might engage and be interested."

Teacher

Development activity to develop whole-school approaches to inclusion and behaviour management

"I think it's building expertise within your own school. Because we did team-teach and then we've got one teacher who's trained as a team-teach practitioner, so she has to do two days top-up training every year. But then she can train the rest of the staff. And she's also on hand so that if there is a child having a crisis she can be the counsellor for the member of staff. They can go to her and say 'Look, he's done this today, what would you suggest?' And I think it's that reassurance for staff that there's somebody on site that has a great deal of expertise. And she goes and works and trains in other schools as well; we release her to do that; that builds the capacity. So for children that are at risk of exclusion she will sit down with a member of staff and write a handling plan for that child to say look at what their triggers are, what to do if the child is in crisis, what to avoid doing when the child is in crisis, how to take it forward after the crisis. And I just think if she left now we have the capacity but we need to train another person up in-house who's there day in day out. Team-teaching is brilliant, it's really, really good."

<div align="right">Teacher</div>

One participant expressed a view on buying whole-staff training on de-escalation:

"the training isn't cheap; we did it as a whole-staff training initially, like we did two training days on it. But it looks at all pupils. [It gives staff] a shared language."

<div align="right">Teacher</div>

Intensive support on specific special needs

One respondent told researchers that intensive support of individual special needs had been valuable. This support had been provided as whole-team training following substantial staff turnover.

"One of the things that we've been doing on our current programme is actually working in partnership with a few other charities. And one of them is a speech and communication specialist charity… what we are doing is a sort of two-pronged approach. One is the [charity] person associated with my team, who is doing workforce development stuff with us, so that all of my staff are more skilled to be able to do communications assessments and use strategies, whether we're doing one-to-one work or group work, whatever. And then that [charity] communications adviser is also working with schools to do workforce development about communication issues. One of the things that statistically is definitely known but perhaps not addressed as much as it should be is the strong link between hidden communication difficulties and inability to engage with the curriculum."

<div align="right">Non-teaching professional</div>

Barriers to training and development

In conversations with a wide range of stakeholders, working at different points in the education system, two significant barriers were identified to us to schools doing more to develop their staff understanding of diversity and inclusion:

- a lack of awareness of the materials available to support training and development, and an underdeveloped market in the supply of development services direct to schools; and

- a low priority given to training and development in this area, in comparison with issues such as subject knowledge and training to prepare for changes in curriculum and assessment schemes.

Lack of awareness of resources

During the first year of this Inquiry, we agreed with the Government's review of Alternative Provision when it said that, while there were some excellent providers, the quality of provision generally was too variable and was not rigorously quality assured. We consider that this assessment holds true for CPD materials on inclusion and diversity. Those who have given evidence to the Inquiry have consistently said that, while some materials are excellent, others are not. Equally, there is no central, quality-assured bank of resources to which schools can refer to ensure that they adopt best practice in developing their staff.

Schools and other providers also referred to the increased difficulty in accessing training and development as an indirect result of wider changes to the educational landscape. Previously, Local Authorities had often acted as the default provider of professional development to many schools. However, with pressures on Local Authority budgets and the conversion of many schools to academy status, this is no longer the case in many areas of the country. In some areas, other providers have always offered this service, and in time they may expand to fill the gap left by the contraction of Local Authority provision. However, this expansion has not yet taken place in many localities, and schools in these areas often find it difficult to meet their training and development needs.

Several stakeholders have referred to the TTRB, which was, until 2010, operated by the Training and Development Agency for Schools (now part of the Teaching Agency). They felt that this offered an extremely useful "one-stop shop" for training and development materials that had been independently quality assured.

In fact, many of the materials developed for the TTRB still exist, archived on the Teaching Agency's website. Among these are a suite of extremely high-quality training materials on inclusion and diversity, developed as part of the Lamb Review of SEN in 2009.[33] These materials are still used by a small number of training providers. However, others are unsure whether they are still "relevant" following the change in government in 2010. Moreover, they are extremely difficult to find in the TTRB archive – in order to find them, the searcher has to know already that they are there.

We consider that these still represent good practice in training teachers in how to teach children with particular special needs, and that they should be used more widely. We therefore recommend that the Teaching Agency slightly amend its website to make these materials easier to find. We also recommend that a review be undertaken of the existing

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33 www.education.gov.uk/publications/standard/publicationDetail/Page1/DCSF-01143-2009

TTRB archived materials, with those still relevant to best practice in diversity and inclusion given due prominence in the work of the Teaching Agency.[34]

Finally, we recommend that the Teaching Agency considers reinstating the TTRB or a similar mechanism to enable practitioners to share best practice with each other, and broker the more widespread dissemination of this best practice. This is not a question of government "telling" schools and others what to do. Rather, it is about government providing a shared space where good practice can be shared between practitioners.

Neither of these recommendations would involve significant cost to the Teaching Agency, and would make the sharing of best practice between different settings much easier to achieve in a more diversified educational environment. The Government has already accepted the principle of acting as a "signpost" to good practice through its publicising of specific materials for teaching phonics.[35] **This recommendation would simply involve extending this to other areas of professional training and development.**

Teachers' organisations have made it clear to us that the profession recognises a clear distinction between necessary guidance, which should be as clear and concise as possible, including support materials that better enable teachers to teach, and unnecessary bureaucracy or "diktat". We agree that this is an important distinction.

Priority given to diversity and inclusion

As set out above in the section relating to schools, it is important that work on encouraging inclusion be given high priority in a school's ethos. Among the best schools, this is usually viewed as "enlightened self-interest" – inclusion is a means of increasing the school's attainment at least as much as being an end in itself. One headteacher told us that:

> *"kids learn better when they feel part of the school. Once we can persuade them they are one of us, a lot of the behaviour issues just go away. It doesn't work 100 per cent of the time, but not far off it."*
>
> *Headteacher, secondary school, South East*

However, for many schools this appears not to be the case. Repeatedly, we and our researchers were told by teachers that there was no time or space in the school year for "stuff like inclusion". Rather, they reported that the school felt forced to set other priorities for training and development. These included:

- subject knowledge training for individual teachers;

- training on changes to the curriculum or external assessment frameworks;

- training on the changing Ofsted framework; and

- child protection and safer recruitment training.

These are all important areas of work for all teachers, of course. It is true that, unless key staff understand key developments in these areas, the school is unlikely to be able to achieve to its full potential. It is equally true that there is a finite amount of time for schools to spend on development

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34 http://webarchive.nationalarchives.gov.uk/20120203163341/http://www.tda.gov.uk/training-provider/serving-teachers.aspx

35 www.education.gov.uk/schools/teachingandlearning/pedagogy/phonics/b00198579/phonics-products-and-the-self-assessment-process

activities for their staff, and headteachers must set priorities based on the needs of their schools and their students. However, we agree with the Government and with Ofsted when they state that schools must be orderly and focused environments in order for any learning to take place. We also believe, based on the evidence received, that understanding and managing the needs of an increasingly diverse student body is a necessary step to achieve this order, and to open the door to achievement by all pupils. It is no coincidence that the schools that are the most effective overall are often those that have an inclusive ethos and that often have very few exclusions, if any.

As a result, we consider that schools and teachers should be further incentivised through the accountability framework to place a higher priority on encouraging inclusion.

Specifically, we recommend that Ofsted inspectors pay particular attention to inclusion practice when reporting on two specific aspects of their framework for inspections:

- **Under "Quality of teaching and learning", inspectors are required to assess the extent to which "teachers and other adults create a positive climate for learning in which pupils are interested and engaged".[36] This should include an assessment of the extent to which individual needs are addressed and all pupils are included in teaching.**

- **Under "Quality of leadership in, and management of, the school", inspectors are required to make a judgement on how schools "enable all pupils to overcome specific barriers to learning".[37] Again, this should include an assessment of the school's attitude to inclusion and meeting the needs of a diverse pupil population.**

We recommend that individual teachers are further incentivised to give a higher priority to inclusion in their professional development. Developments currently underway to change the way in which teachers progress through the profession, including the increased use of performance-related pay, should give a clear incentive to teachers to ensure that their professional skills are continually improved and updated, including with regard to managing diversity and encouraging inclusion.

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36 Framework for School Inspections. Ofsted, December 2012.
37 Ibid.

Areas for further examination

The educational landscape has changed very rapidly in recent years and will continue to evolve at a similar rate for the foreseeable future. Changes to school governance, along with changes to the extent to which schools are expected to act collaboratively, rather than competitively, mean that there is a risk that there will be less co-operation in areas that are best dealt with by working together (e.g. fair access protocols). Pressures on budgets, allied to immature markets in specialist support, also mean that there is a danger that schools will be forced into going it alone and will be less likely to access expert services.

Schools currently have a collective memory of working together developed over many years. This is often deeply embedded in custom and practice, with many key individuals still in post. It is entirely possible that these arrangements will continue out of enlightened self-interest, coupled with a future role for the Local Authority as the statutory champion of the child. However, it is far from certain that the current approach will continue. We therefore propose to look at the further developments in this direction in our next year of activity. We also propose to examine the lessons to be learned in this area from the period of grant-maintained schools in England, and how school leaders at that time managed similar issues to those faced by converter academies now.

Admissions and dealing with special educational needs, poverty and diversity

The relationship between exclusions and admissions was not part of the scope of this Inquiry, and as a result we have not included discussion of this issue in this report. However, it is an issue that was raised with us consistently by the majority of stakeholders who gave evidence to this Inquiry. Stakeholders repeatedly reported instances of schools attempting to "game" the admissions system to skew their intake and reduce the number of "difficult" children they have on their roll. In particular, stakeholders reported schools attempting to reduce the number of children they received with statements of SEN, or with English as a second language. Specific accusations made to the OCC in the course of this work included:

- parents of children with SEN being dissuaded from applying to schools at information evenings, or being required to have an interview with the headteacher in advance of application;

- parents being told of school trips that were compulsory and extremely expensive as a way of dissuading those on low incomes from applying;

- uniform or appearance rules in some schools aimed at reducing the number of students from ethnic minorities;

- school uniforms being available from only one expensive supplier based some distance from the school (one parent described a uniform as costing "upwards of £300 with no flexibility from the school"); and

- schools refusing to admit children with statements of SEN, although the school had been named on the statement, as it would "damage the education of others", with scant evidence for this bold assertion.

The contention of our witnesses is that this "exclusion by admission" is at least as common as other forms of discriminatory activity.

The admissions system has not been the focus of this work, and as a result we are not in a position to verify these accusations. However, we note that similar cases have been identified by the Schools Adjudicator in her annual report,[38] and in the recently published report by the Academies Commission chaired by Christine Gilbert and sponsored by the RSA (Royal Society for the Encouragement of Arts, Manufactures and Commerce).[39] Taken together, this suggests that there is at the very least a case to answer on this issue. We therefore propose to study this aspect of the admissions system in our future work.

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38 www.education.gov.uk/schoolsadjudicator/about/a00199754/annual-report-of-the-chief-schools-adjudicator-for-england
39 Unleashing Greatness: Getting the Best from an Academised System. The Report of the Academies Commission. January 2013.
     www.academiescommission.org/academies-commission-report-unleashing-greatness-getting-the-best-from-an-academised-system/