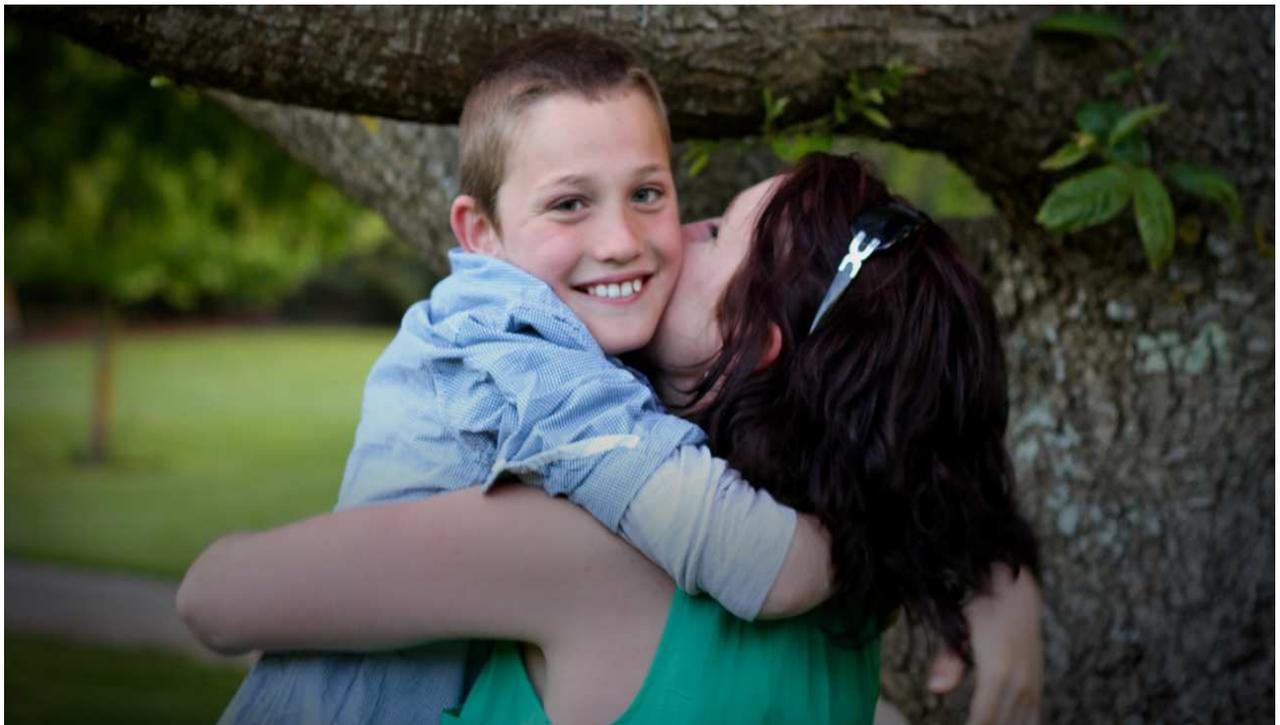


Parents of Vision Impaired (NZ) Inc
Submission
To the Ministry Of Education

*Having our say about
updating the Education Act 1989*



1 December 2015



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National Office: Level 1, 11 Mahara Place, Waikanae 5025, New Zealand. P.O.Box 513 Waikanae.

National Executive Officer: David Heather Mobile 0274 402 073

Telephone 04 293 8236 .Email: david@pvi.org.nz Web: www.pvi.org.nz

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The Ministry of Education and Minister Parata's Public Discussion Document

'Have your say about updating the Education Act 1989' states:

WHAT CHANGES ARE NEEDED

'One of the biggest changes suggested is to make it clear in our law that children and young people, and raising their achievement, comes first.'

'The law should help schools, kura and early learning services by setting out a clear direction, saying who is responsible for what, and saying how schools and kura should plan their priorities and report their progress.'

The law should also make it easier for schools, kura, Communities of Learning and early learning services to work together more to deliver the best education for every child and young person and to try out great ideas.'

For special needs children and young people in New Zealand the 1989 Act has failed to deliver on transparency of services, on accountability of services and resources. The considerable research and consultation we have completed on this submission confirms that.

Parents of Vision Impaired New Zealand (PVINZ Inc) is a parent support group formed in 1984 to provide a parent information network, an advocacy and support infrastructure serving a constituency of approximately 1600 parents and families in New Zealand. We have a permanent staff and we are supported by the Blind Foundation and other funding providers in New Zealand. Since our formation we have relied on the charity dollar and parent volunteers to grow and service our parent network.



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With the evolution of mainstreaming in New Zealand, we have seen our parent communities scattered far and wide and the ability of families to network and exchange their education experiences with other parents of disabled children quite restricted. Our children have a wide variety of disabilities which require a variety of different teaching and education techniques that extend beyond the school and classroom to our families and homes. The opportunity to learn and network from other families is reliant on volunteer organisations like PVINZ.

Our organisation was no doubt celebrating its Fifth Birthday at about the time that the Education Act 1989 was born. There have been 79 amendments to the Education Act since 1989. Much has changed in the twenty six years since the Act became law, and many things have not. Nearly three generations of children and young adults have made their way through the education system. For our group of families and parents that number might be 2500 to 3500 children.

It was not until 2000 that work began on modelling and reshaping education services for our blind and vision impaired children. In collaboration with the Ministry of Education, Blind Foundation, teachers and staff at Homai College, and the various New Zealand Visual Resource Centres, and parents a new model of service delivery evolved.

We now have a world class model for the delivery of education services in New Zealand nearly fifteen years after the 1989 Act became operational. The large majority of our student population are now mainstreamed. There are also students in special classes, units and special schools. Our parents fully support choices in the children's educational placement.

We have a record of strong advocacy for the education needs of our blind and vision impaired children and their parents and families. **What we have noticed in the twenty six years since 1989 is a significant change in the demographic of our children. This year 2015 approximately 65% of our students have more than a vision impairment, and quite a number have complex needs.**



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The lack of quality statistical evidence in New Zealand about Special Education Needs students is a concern. Documents we have been provided with under the Official Information Act suggest the Ministry of Education does not prepare definitive statistical data that we would have thought critical in the management and accountability of a \$500 million budget.

- It appears that the demand for special education resources is growing.
- We are told that the percentage of ORS applications declined since 2007 has remained 'fairly constant' at 32% !
- Further we learn that *'the increasing incidence of neurodevelopmental conditions could also be exerting an effect on the number of students in ORS. Neurodevelopmental conditions are impairments of the brain and nervous system. They typically manifest early in development and result in impairments in social, emotional and intellectual functioning. Common examples are autism spectrum disorder, attention deficit disorder and foetal alcohol syndrome. Evidence to support the view there has been an increase in the incidence of disability particularly in neurodevelopmental conditions comes from a recent study completed in the. United States (Houtrow et al, 2014)'*
- We are concerned that the Ministry of Education does not have that information

- *As Garry Hornby stated in an article in 2012:*

- *'New Zealand has one of the most inclusive education systems in the world with less than 1% of children educated in special schools, classes or units in mainstream schools. **The 1989 Education Act gave the legal right for all children to attend their local mainstream school from age 5-19 years.** In 1996 the Ministry of Education (MoE) introduced a policy called 'Special Education 2000' which was intended to bring about mainstreaming for all children, that is the inclusion of all children with SEN in mainstream schools.*

*The 1989 Education Act also set up self-managing schools, so that New Zealand now has one of the most devolved education systems in the world, with individual schools governed by Boards of Trustees made up mainly of parents. **The only requirement on schools from the MoE regarding children with special education needs (SEN) is a very general one, that schools identify students with special needs and develop and implement teaching and learning strategies to address these needs (MoE , 2009)***

When policy and practice regarding inclusive education for children with disabilities and SEN are compared with that of other countries, such as the USA and England, two differences are clear. First, New Zealand policy for inclusive education has been more radical than that in most developed countries, with an espoused goal of educating all children with disabilities and SEN in mainstream schools. The impact of this policy is evidenced by the slightly smaller percentage of children with SEN in special schools and classes than in the case in England (around 1.35%) and a substantially smaller percentage than that in the USA (around 8%). The second difference is that when the actual practice of providing for children with disabilities and SEN



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in mainstream schools is compared with that in England and the USA, glaring deficiencies are apparent.'

The recent developments in England (January 2015) should be seriously considered when the existing Act is reviewed.

We refer specifically to:

- **Special educational needs and disability code of practice: 0 to 25 years**
- **Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities**
- **January 2015**

The Parliamentary Under-Secretary of State for Health and the Parliamentary Under-Secretary of State for Children and Families commented '

' Our vision for children with special educational needs and disabilities is the same as for all children and young people – that they achieve well in their early years, at school and in college, and lead happy and fulfilled lives. This new Special Educational Needs and Disability Code of Practice will play a vital role in underpinning the major reform programme.

For children and young people this means that their experiences will be of a system which is less confrontational and more efficient. Their special educational needs and disabilities will be picked up at the earliest point with support routinely put in place quickly, and their parents will know what services they can reasonably expect to be provided.

Children and young people and their parents or carers will be fully involved in decisions about their support and what they want to achieve. Importantly, the aspirations for children and young people will be raised through an increased focus on life outcomes, including employment and greater independence.

Local authorities and their local health partners have been working together to prepare for the new arrangements, to jointly plan and commission services for children and young people who have special educational needs or are disabled. Those with more complex needs will have an integrated assessment and where appropriate a single Education, Health and Care plan for their support. The Code of Practice is the product of extensive consultation, and draws on the experience of pathfinder local authorities which have been piloting new approaches with local communities. We have listened to a wide range of individuals and groups and the result is a Code which will help everyone working with children and young people with special educational needs and disability to secure for them the outcomes from education, health and social care which will make the biggest difference to their lives.'



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DR DAN POULTER EDWARD TIMPSON

Parliamentary Under-Secretary of State for Health Parliamentary Under-Secretary of State for Children and Families

'This Code of Practice provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations and applies to England. It relates to children and young people with special educational needs (SEN) and disabled children and young people.

A 'young person' in this context is a person over compulsory school age and under 25. Compulsory school age ends on the last Friday of June in the academic year in which they become 16. For ease of reference, young people are referred to in this Code of Practice as 'over 16'. In this Code of Practice, where the text uses the word 'must' it refers to a statutory requirement under primary legislation, regulations or case law. The bodies listed in paragraph iv. Must have regard to the Code of Practice. This means that whenever they are taking decisions they must give consideration to what the Code says. They cannot ignore it. They must fulfil their statutory duties towards children and young people with SEN or disabilities in the light of the guidance set out in it. They must be able to demonstrate in their arrangements for children and young people with SEN or disabilities that they are fulfilling their statutory duty to have regard to the Code. So, where the text uses the word 'should' it means that the guidance contained in this Code must be considered and that those who must have regard to it will be expected to explain any departure from it.'

What is clearly demonstrated in this English example is the close collaboration between education, health and welfare. This is not apparent in New Zealand, and we believe if there was such collaboration considerable savings would be achieved in time and funding.

The statutory guidelines clearly highlight accountability, transparency and urgency. The New Zealand service delivery model is weak in comparison. While we acknowledge the structures are different the English practice is compelling.

We have accepted that there was a devolution of power and our local schools in New Zealand are self-governing. What these schools provide for children with special education needs varies widely between schools and is often inadequate.



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Given some of the papers that have been prepared by various government agencies, there is a distinct lack of follow up, and a complete lack of transparency to see that the various resources targeted for our children reach them. For example:

- 2008 Office of Disability Issues: Statistics New Zealand. Disability and education in New Zealand 2006. This 62 page report was based on the 2006 CENSUS and is a definitive research paper. Unfortunately, it covers an age range 5-14.
- 2009 Controller and Auditor General: Ministry of Education managing support for students with high special educational needs.
- While the Ministry of Education produces special education statistics, they do not publish statistics by disability, age group and region.
- The Education Review Office has published a number of reports on inclusion in special education. It would appear that these are based on the results of questionnaires completed by a number of schools throughout New Zealand. The Education Review Office do not track targeted funds for SEN children to assess that they actually reached these children.
- There does not appear to have been any repeat or follow up on the excellent reports of the Office of Disability Issues or the Audit Office.

The lack of transparency and accountability of our special education resources is quite apparent at our local schools. The parents of our SEN children are in a significant minority in the local schools and more often than not feel intimidated at querying and questioning special needs allocations and resources.

The Human Rights Commission does log complaints in the disability area and it would appear they are the tip of the iceberg. Recourse to the Health and Disability Commissioner is difficult as they do not enter into matters involving funding.



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This is an extract from a February 2015 report by Child Poverty Action Group and is very typical of the commentary occurring throughout parent support networks in New Zealand

Access to services

*All the caregivers spoken to talked about the lack of access to appropriate services. The chief concern for parents was difficulty in education, both primary and early childhood. Schooling for disabled children is complex, because of both the wide range of physical, intellectual, and multiple disabilities children may have, and the multiple layers of provision. **Reflecting this, the most recent Disability Convention monitoring report identified as a key issue facing the disabled. Although the Education Act states that people with special educational needs have “the same rights to enrol and receive education at State schools as people who do not,” the monitoring report notes this right is not legally enforceable. The report also notes: “Exclusion, isolation and bullying remain significant issues for children and youth.***

Education-related complaints continue to make up a large proportion of disability complaints to the Human Rights Commission” (Independent Monitoring Mechanism of the Convention on the Rights of Persons with Disabilities, 2014, pp. 9-11). The report notes work by the Education Review Office has made progress towards schools becoming more inclusive, although issues around reporting remain.

Most of the parents spoken to send their children to mainstream schools, and although this generally worked well, they did raise a number of issues. These included:

- *gaining acceptance into the school;*
- *ensuring their children were accepted for who they were once they were in school;*
- *being able to access additional funding;*
- *availability of specialist services such as reader/writers, especially in low-decile schools;*
- *lack of accountability of schools and the Ministry of Education for failures to provide children with the help to which they are entitled or to implement children’s individual education plans (several parents mentioned their children’s individual education plans “came to nothing”); and*
- *schools’ failure to recognise and provide services for children with special needs, especially in low-decile schools.*

More practically, parents complained that schools did not carry information over from year to year, and that their child’s disability was not noted on their record. Indeed, there can be a gap



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between a child leaving pre-school, where they are usually well looked after, and services available at school, for example if ORS has not been processed in time. Parents and advocates both described 23 Section 8, Education Act 1989.

ttp://www.legislation.govt.nz/act/public/1989/0080/latest/DLM175959.html. 23 “horrendous” difficulties getting “just a basic level of support” for their children’s education with one parent describing support from her child’s school as “surprisingly useless”.

Another described her dealings with the Ministry of Education as “slow, difficult, and they hadn’t read their notes.”

While some parents noted the valuable assistance of their school Special Education Needs Coordinators (SENCO), others observed that these were sometimes absent or not sufficiently well resourced to be effective.

There was also a gap with early childhood education providers not being obliged to take on children with disabilities. This is potentially stressful for sole parent beneficiaries with other children who are under pressure from Work and Income to attend job-preparation seminars and comply with social obligations.

ORS funding was perceived as difficult to get, with funding applications being declined when it appeared the child should meet eligibility criteria. Parents and advocates described needing to go to court to get funding decisions reviewed, while one caregiver said her child was presently “just above the level” of disability for funding but “by next year she’ll be far enough behind [from lack of help] that she will be eligible.”

- We have quoted the writings and research of Garry Hornby above, and we agree with a number of his very compelling arguments surrounding education reforms required to protect and enhance the position of special education needs children and their families. We consider it important for regular consultation with parents, families and whanau, and that we are involved in all relevant discussions)
- There is a need for all boards of trustees to have special education representation to ensure that the voice of special needs children/young people and their whanau is heard and to ensure that schools have relevant policies and procedures in place.
- There is a need to adopt a code of education ethics, similar to the health and disability consumer code of rights, to ensure that there are clear parameters and that parents, families and whanau are safeguarded and have a pathway of redress if required.



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Our requests for inclusion in an amended Education Act are as follows:

Legislation for children with SEN

Although the Education Act states that people with special educational needs have “the same rights to enrol and receive education at State schools as people who do not,” the monitoring report notes this right is not legally enforceable.

New Zealand where schools are self-governing, what schools provide for children with SEN varies widely and is often inadequate.

Statutory guidelines required for schools about SEN

Guidelines on SEN issues are provided by the MoE, but schools can choose whether to follow these.

A statutory requirement that schools have SENCOs or SEN Committees.

A statutory requirement for schools to provide Individual Education Plans (IEPs).

At present this procedure is optional and yet it is critical in assessing performances and resource requirements.

A statutory requirement that the MoE assumes resourcing and educational responsibility for special needs children from ages 0-22.

A statutory requirement that educational psychologists have a mandated involvement in the assessment and programme planning for children identified as having severe levels of SEN.

A statutory requirement that the Education Review Office adopt reporting



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processes that assess the effectiveness and accountability of Special Education
funding in New Zealand.



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