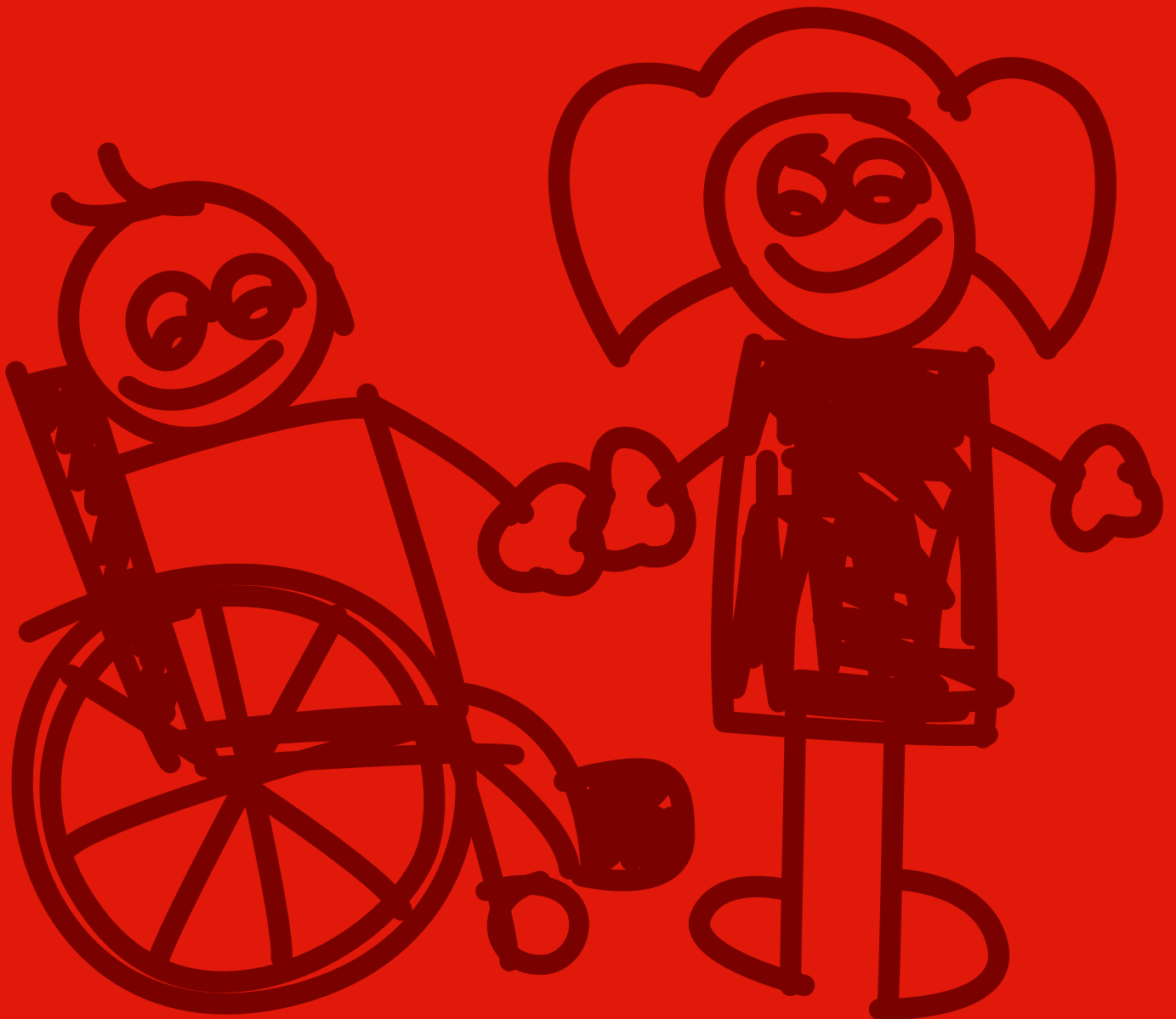




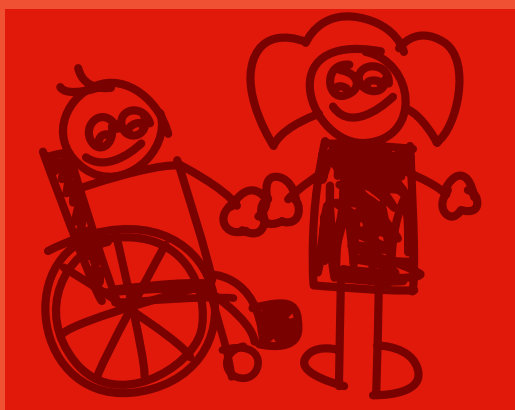
# FULL LIVES: EQUAL ACCESS?

Spotlight report on wheelchair accessibility  
in secondary schools in Wales



## Acknowledgments

We would like to say thank you to those who contributed to this spotlight report. We are particularly grateful to Dr Sue Hurrell, an independent researcher and campaigner, whose honest contribution is much valued.



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This report is available in alternative formats by phoning us on 01792 765600 or emailing us at [post@childcomwales.org.uk](mailto:post@childcomwales.org.uk)

There is a set of laws, including the Care Standards Act 2000 and the Children's Commissioner for Wales Act 2001, which explains the role and responsibilities of the Children's Commissioner for Wales. The Children's Commissioner for Wales wants to see Wales as a country where children and young people are respected, valued, listened to and supported to lead safe and happy lives.

There's a team of people who work with Keith Towler, the current Commissioner – from offices in Swansea and Colwyn Bay – to help him:

**support** children and young people to find out about children's rights

**listen** to children and young people to find out what's important to them

**advise** children, young people and those who care for them if they feel they've got nowhere else to go with their problems

**influence** government and other organisations who say they're going to make a difference to children's lives, making sure they keep their promises to children and young people

**speak up** for children and young people nationally on important issues – being the children's champion in Wales.

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## **Introduction**

Education is a key part of every childhood. Not only do children learn and develop at school, they establish relationships and gain new experiences. It is their right under Article 29 of the United Nations Convention on the Rights of the Child (UNCRC)<sup>1</sup> “that education should develop each child’s personality, talents and abilities to the fullest”. Article 23 also states that “children who have any kind of disability have the right to special care and support”. It was to my great disappointment to learn that not only are some children in Wales missing out on this positive experience, but that some of the most vulnerable are the ones most affected. Children who use wheelchairs are often unsure about where they will attend school, an issue that causes even more upset at secondary school level when they learn they will be separated from their peers and expected to attend a different school (often requiring further travel). Families are left unhappy, stressed and having to fight for the right for their children to be educated in a school alongside their friends and peers.

**“I am sad that I might not go to the same high school as my friends” 9 year old girl.**

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<sup>1</sup> [www.unicef.org.uk/Documents/Publication-pdfs/UNCRC\\_PRESS200910web.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf)

**In my annual report for 2012/2013 I made the following statement:**

**“The Equality Act 2010 requires local authorities to plan the accessibility of schools for disabled pupils and individual schools are required to have an accessibility plan in place. Evidence has been brought to my attention which suggests that these duties are not being fulfilled consistently across Wales. I intend to investigate compliance with the Equality Act 2010 and the impact of this on the opportunities for disabled children to enjoy their rights to education without discrimination.”**

**Keith Towler,  
Children's Commissioner  
for Wales**

## Background

### Children's Rights

The United Nations Convention on the Rights of the Child (UNCRC) is an international agreement that protects the human rights of children under the age of 18. The Rights of Children and Young Persons (Wales) Measure 2011<sup>2</sup> was passed at the National Assembly for Wales in 2011. It places a duty on Welsh Ministers to have due regard to the rights and obligations within the UNCRC and its optional protocols. In this regard this includes Articles 23 and 29 as previously mentioned and also Article 12 which states that "when adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account".

### The Law

Both the Disability Discrimination Act 1995<sup>3</sup> and the Special Educational Needs and Disability Act 2001<sup>4</sup> state that the responsible body for a school is not required to "remove or alter a physical feature" in order to make a school premises accessible to a disabled child. In 2010 the Equality Act<sup>5</sup> came into force and replaced all existing equality legislation. Under this Act the responsible bodies for schools are now under a duty to make "reasonable adjustments" for disabled people in relation to auxiliary aids or a service, however schools are still not subject to the reasonable adjustment duty to make alterations to physical features. Although other public buildings are subject to such a requirement, schools remain exempt because alteration of physical features is already considered as part of a school's planning duties.

The 21st Century Schools Programme is a "major, long-term and strategic capital investment programme"<sup>6</sup> for improving schools and education in Wales. Although new build schools should be wheelchair accessible under The Building Regulations 2010<sup>7</sup>, there is no reference within the 21st Century Schools guidance to applicants requiring them to prioritise accessibility as a condition of funding.

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<sup>2</sup> [www.legislation.gov.uk/mwa/2011/2/contents/enacted](http://www.legislation.gov.uk/mwa/2011/2/contents/enacted)

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<sup>3</sup> [www.legislation.gov.uk/ukpga/1995/50/contents](http://www.legislation.gov.uk/ukpga/1995/50/contents)

<sup>4</sup> [www.legislation.gov.uk/ukpga/2001/10/contents](http://www.legislation.gov.uk/ukpga/2001/10/contents)

<sup>5</sup> [www.legislation.gov.uk/ukpga/2010/15/contents](http://www.legislation.gov.uk/ukpga/2010/15/contents)

<sup>6</sup> [21stcenturyschools.org/?lang=en](http://21stcenturyschools.org/?lang=en)

<sup>7</sup> [www.planningportal.gov.uk/uploads/br/BR\\_AD\\_M\\_2013.pdf](http://www.planningportal.gov.uk/uploads/br/BR_AD_M_2013.pdf)

## Accessibility for Disabled Pupils

The Disability Discrimination Act 1995, Special Educational Needs and Disability Act 2001 and the Equality Act 2010, all make reference to the duty on local authorities to produce a written accessibility strategy for the schools for which they are responsible. Such a strategy is expected to address "improving the physical environments of schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools" (Schedule 10 of the Equality Act 2010<sup>8</sup>). This strategy must relate to a prescribed period, be consulted upon, available for inspection and kept under review. Similarly individual schools must carry out accessibility planning and are under a duty to prepare an accessibility plan following the same principles as the strategies prepared by the local authorities.

In 2004 the Welsh Assembly Government published a guidance circular "Planning to Increase Access to Schools for Disabled Pupils"<sup>9</sup>. This guidance highlighted that Local Education Authorities (LEAs) and schools were to have their accessibility strategies and plans in place by 1st April 2004. It makes direct reference to the need for schools to improve the physical environment of a school so that disabled children and young people can access education. LEAs are required "to take a strategic approach to planning for increased disability access" across all their schools. In order to achieve this they should have good, reliable data, undertaking an audit if necessary. LEAs are also responsible for funding any capital work in their school stock.

Estyn, Her Majesty's Chief Inspector of Education and Training in Wales, has a crucial role to play in this matter. A random sampling of Estyn school inspection reports from across Wales shows that while some mention accessibility plans, many do not make any reference to the presence or indeed absence of such plans. Estyn has advised that inspectors do not ordinarily scrutinise accessibility strategies as part of an LEA inspection and in this regard there is no mention of them in current LEA inspection reports on their website. Section 6.5 of "Planning to Increase Access to Schools for Disabled Pupils" states that Estyn will check LEA accessibility strategies and school accessibility plans as part of their inspection process for schools. This should look at not only the presence of a strategy/plan but also their "preparation, review and implementation".

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<sup>8</sup> [www.legislation.gov.uk/ukpga/2010/15/schedule/10](http://www.legislation.gov.uk/ukpga/2010/15/schedule/10)

<sup>9</sup> [wales.gov.uk/dcells/publications/publications/circularsindex/04/disabledaccess/nafwc1504-e.pdf?lang=en](http://wales.gov.uk/dcells/publications/publications/circularsindex/04/disabledaccess/nafwc1504-e.pdf?lang=en)

## Research

Research was undertaken by Dr Sue Hurrell, an independent researcher and campaigner, and parent of a child who has cerebral palsy and who uses a wheelchair. Dr Hurrell worked with a journalist to issue Freedom of Information requests to all local education authorities in 2012 asking them to provide a copy of their accessibility strategy; a statutory duty under the Equality Act 2010. This resulted in 8 LEAs confirming that they had no strategy, 3 advised that one was not available and 3 LEAs declined to respond to the FOI request.

A follow up FOI by Dr Hurrell in 2013 asking the same question did not result in a much improved picture. 11 out of 22 LEAs in Wales either have a weak document that does not provide sufficient information on their intentions for improvement or they do not have any strategy at all. Of the other 11 LEAs, 6 had plans which were either out of date or were merely statements of intent and of the remaining 5 that were in date, only 2 accessibility strategies resembled what was intended by the legislation.

## Views of Families

School accessibility is not something that affects school choices for the majority of parents and carers, however it is something that has to be seriously considered by the parents and carers of children who use wheelchairs as they begin to think about the transition to secondary school. A few families were willing to share their experiences of applying for secondary schools for their children with mobility difficulties. Unfortunately this was not a positive experience for the most part with families having to struggle, fight and compromise in order to achieve a reasonable outcome for their children. Children are not only required, but also expected, to leave behind their friends and attend a school deemed accessible by the LEA, often only to find that the school may not be as accessible as they had been led to believe initially



### **Case study 1**

The parents of one child reported that a lack of choice of secondary schools had a negative impact on the whole family. The local authority could not provide comprehensive details of accessible schools. They reported that the attitudes of some professionals in both schools and the local authority was "unhelpful" and "not welcoming". The whole process was "confusing and a complete mess".

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### **Case study 2**

Another family moved house in order to try and make the transition to secondary school easier. However they still felt there was no planning around the needs of the individual children or consultation with the parents. Strategic plans were "never seen in time". When adaptations were agreed it was another 3 years before the changes were finalised, with arguments over whether it was the school's or the LEA's responsibility to pay. Again this family reported that staff attitudes towards disabled children was very mixed.

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### **Case study 3**

One family have had a very positive experience having moved into catchment for a school of their own choice. While sometimes the school have needed prompting they have been very open to change. The parents have felt listened to and had been reassured that all adaptations would be made in time for their child starting secondary school. They said "cost doesn't matter" and their child has had an "excellent transition".

Hearing the experiences of those families concerns me greatly especially in light of the obligations on LEAs under the planning duties requiring them to have an accessibility strategy and detailed knowledge of accessibility within their school stock.

I am even more troubled to hear reports of the negative attitudes of staff, both in schools and local authorities. As part of their planning duties and in the development of their accessibility plans schools should assess the current accessibility levels of their school. This not only concerns physical barriers but also the culture and ethos of the school.

Fortunately there was some positive feedback and it reassures me to know that there are some positive experiences out there but does lead me to question why this is not the case across the whole of Wales.

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Similar issues were outlined from meeting with professionals working on disability equality and related issues. They reported that schools are still inaccessible in the main for children who use a wheelchair or often they are excluded from certain classes due to their disability such as cookery, science or from school trips. Once again the negative attitudes of school staff was highlighted as a major concern. A school can be the most physically accessible building but if the child and their family feels unwelcome or unsupported then it will never be truly accessible. Professionals felt a refreshed guidance from Welsh Government outlining the planning duties would be welcomed especially if it contained examples of best practice and recommended regular disability awareness training for all staff.

I would encourage any child, young person, parent, carer or professional who experiences issues with school accessibility to contact my office for advice and support.



Our Advice and Support service is free and confidential. It's there as a source of help and support if children and young people or those who care for them feel that a child's been treated unfairly. We can provide advice and support to a child or young person up to the age of 18 or 25 in certain circumstances. Here's how to contact us:

Freephone:  
**0808 801 1000**

Text us for free:  
**80800**  
(start your message with COM)

Email us:  
**advice@childcomwales.org.uk**

## What Needs to Happen

I am deeply concerned that schools are not under the same duties as other public buildings in their requirements under the Equality Act 2010 to make their buildings physically accessible and I feel that this is a missed opportunity for the rights of children and young people with a disability in terms of their education. How can we expect children and young people to reach their full potential when these physical barriers are placed in their way?

While the planning duties, which have been in force since 1995, place a clear duty on schools and LEAs in terms of planning to make their schools accessible, it is evident that this has not been sufficient. The guidance was written by the Welsh Assembly Government in 2004 and yet in 2014 it appears that not every school in Wales has an accessibility plan. Some Estyn inspection reports highlight that schools do not have the required plan in place as is their statutory duty. In addition, we can see from the Freedom of Information requests that not all LEAs have an accessibility strategy in place and if they do they are either insufficient in their detail or out of date.

Even where accessibility plans are in place they are not generally implemented and unlikely to have been reviewed. This is where the impact is felt by the children and their families. It is almost irrelevant that there even is a plan in place if nothing changes for the child. A plan needs to be implemented in order to ensure that a difference is made to the child's life and improves their ability to access education alongside their siblings, friends and classmates.

It may be felt that it is difficult to anticipate needing to make physical adjustments to a school in the future and that may be true in some cases, however many of these children are known to the LEA disability officer from primary school and so planning for transition should begin early on with ample time to get the ball rolling for the future. In fact parents begin to think about secondary schooling for their disabled child often far ahead of time.

LEAs are required to develop accessibility strategies that seek to improve physical access across all of their schools as a matter of course. This should be undertaken in a proactive manner rather than merely reacting to the needs of an individual. I am not convinced that all LEAs are aware of the current position in terms of accessibility within their school stock. Parents have told us that they could not be provided with details of accessible schools when they made enquiries of the local authority. This is something that needs to be improved urgently with local authorities conducting audits of their school stock to develop a clear picture of their area. This will clearly inform the development of a future accessibility strategy.

Compliance with the statutory duties is clearly an issue in relation to accessibility in schools in Wales. LEAs and schools must be held to account in this regard and the Welsh Government must ensure that LEAs and schools fulfil their duties. The guidance published in 2004 needs to be reviewed and refreshed, including good practice examples and calling on schools and local authorities to involve staff, parents and children in the development of accessibility strategies and plans and encouraging disability equality as part of staff training.

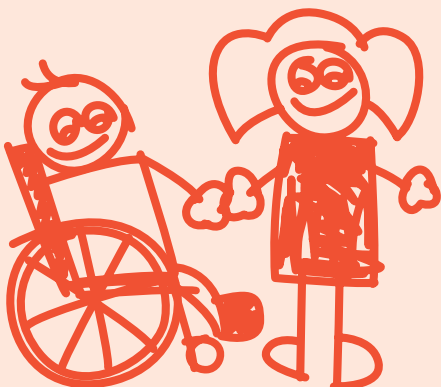


Estyn also have a role to play here as part of their inspections of both LEAs and schools in ensuring that both LEAs and schools are fulfilling their duties to prepare strategies and plans as outlined in the Planning to Increase Access to Schools for Disabled Pupils guidance document. More importantly it is crucial that these strategies and plans are fit for purpose, outlining practical steps that will be taken to improve and increase accessibility for children and young people in all of Wales' schools. These documents must contain timescales and be reviewed and updated on a regular basis.

This spotlight report has highlighted the inadequacies in the current system intended to increase access to schools for disabled pupils. It is my intention to continue to monitor this situation with a view to initiating a full review should no progress be made within 2 years of the publication of this report.

**"the best place to start building a society that is welcoming to people with disabilities is in our schools. If they cannot accommodate children who use wheelchairs then those children start their lives feeling excluded. And all of our children will fail to learn at first-hand what equality really means."**

**Dr Sue Hurrell**



## Priorities for Improvement

— I call on Welsh Government to refresh the guidance "Planning to Increase Access to Schools for Disabled Pupils" within the next 12 months. This document which sets out the planning duties for schools and local authorities has not been updated since March 2004. In doing so the Welsh Government must give due regard to the rights of all children and young people under the UNCRC. Updated guidance should set up-to-date timelines for development of high quality accessibility strategies and plans, along with timescales for review. The updated guidance could also provide examples of best practice to assist LEAs and schools.

— I call on Welsh Government to require applicants to demonstrate their intention to increase accessibility as a condition of funding under the 21st Century Schools Programme.

— I call on Welsh Government to ensure that every Local Education Authority (as per their statutory duty) publishes an accessibility strategy within the next 2 years. Every secondary school in Wales must also have an accessibility plan within the next 2 years. These documents must contain timescales for completion of any necessary adjustments and should be reviewed every 3 years.

— I call on all Local Education Authorities to undertake an audit of their secondary school stock within the next 12 months to ensure that they have clear information on the current position in relation to accessibility for disabled pupils in their area.

— I call on Local Education Authorities and schools to consult widely on the development of their strategies and plans and to make a specific effort to particularly seek the views of children and young people with disabilities and their families.

— I call on Estyn to ensure that within the next 2 years inspection of accessibility strategies and accessibility plans as outlined in the planning duties is covered in all of their inspections of Local Education Authorities and schools and findings clearly outlined in their reports. As part of their inspections schools and LEAs should be required to demonstrate to Estyn how they are implementing the actions outlined in their strategies and plans.



**0808 801 1000 / 80800\***

**post@childcomwales.org.uk**

\* Text us for free (start your message with COM)

**@childcomwales**

**www.childcomwales.org.uk**

Write to us:

**Children's Commissioner for Wales**

**Freepost RRGL XLYC BHGC**

**Swansea SA7 9FS**