



Square Peg Round Whole (SPRW) answers to Supplementary Questions of the NSW Legislative Council Inquiry into Children and Young People with Disability in NSW Educational settings, hearing 22 April 2024

- 1. Some opponents of inclusive education argue that it is not possible for every single child with a disability to be accommodated in a mainstream school because of the extent of the adjustments required to meet the differing needs of each student with a disability. Would a ‘single classroom’ model intended to include all children regardless of their disability exclude the possibility of exceptions in certain circumstances? If so, what do you say to those people who argue that we cannot end segregated education on the basis that not all children can in their view be accommodated into inclusive education environments, even if they are well-resourced?**

The position that Square Peg Round Whole (SPRW) takes on this question is based on our commitment to inclusive education as defined in international human rights law and the experiences of our members. The short answer is ‘yes, it would exclude exceptions’. The mainstream system needs to be – and can be – inclusive enough to accommodate and welcome ALL children without exception. We cannot imagine a circumstance in which any child cannot attend mainstream schools if we implement the right reforms to the environment, training of all staff, behaviour support approaches, and education of and collaboration with the whole school community.

If a child is not having a good experience at a mainstream school then that is the proof that the school needs to make changes. Accepting this is the first lens shift required of the education department and all those involved in our education system. Indeed, it is a lens shift required at a broader community level. At the moment, many disabled children (and many others) do not have good experiences at mainstream schools. But that needn’t be the case. SPRW understands why many parents, including some of our members, end up sending their children to segregated education settings. We understand that at the moment, that ‘choice’ represents the best of some

bad options. Some of our members find that their children are happy in segregated settings. And that is to be celebrated, of course, for those individuals at that time. However, those experiences do not negate the fact that is not the best outcome for those children that we could offer as a society. We could offer an education with their peers which results in better academic and better social outcomes. We don't offer that at the moment, and so it makes sense to find the next best option available. But even in the absolute best case scenario, in terms of individual children having a good experience at their segregated school, it is not as good an outcome as it could be and should be.

All children are entitled to an education and in our society we do provide an education (of sorts) to all children. It makes no sense that children with, say, severe disabilities, can be accommodated in one classroom but not in another. There are adjustments and accommodations made in segregated settings, including care and personal hygiene arrangements, and those need to be transferred over to the mainstream system. The resources also need to be transferred over obviously.

Of course the mainstream system requires significant reform – indeed overhaul – to make it a suitably inclusive environment. But this overhaul is viable and indeed necessary for the benefit of all children, but particularly children who are most excluded such as our disabled children, our First Nations children, our Culturally and Racially Marginalised children and our gender diverse and LGBTIQ+ children.

There are several key points to note in relation to our position that there is no need for exceptions to our support for inclusive education for all children.

- Those who say that it is not possible to include all children in mainstream education simply cannot envisage the education system looking as different as it needs to look – and can look. Inclusive education as per international law includes that all children are educated with their peers in the same classroom. But that does not have to mean that all mainstream classrooms look the same; or that all classrooms within a school look the same. A range of teaching environments and options within one school is possible and preferable. Classrooms just should not be divided up on the basis of disability.
- There are some key and very basic reforms in our education system which would go a long way to making mainstream environments inclusive for all children:
 - smaller class sizes

- improved and increased training of teachers and other staff on the neuroscience of behaviour and trauma responses
- the abolition of a control and compliance focus in behaviour support approaches and replacement of those approaches with an approach such as Collaborative Proactive Solutions (CPS).
- SPRW does not have a significant membership of deaf or hard-of-hearing people or of First Nations people. We are therefore not in a position to say with any authority that schools for those communities, for example, are the same or different to those segregated on the basis of disability. That would be a question for those communities. Based on what we have heard those communities say, our strong instinct is that segregation on the basis of disability is different to a school for deaf people, or an Aboriginal school. Those are arguably ‘segregated’ settings, but the segregation is based on culture and/or language. We understand that the outcomes of culturally distinct schools are positive for those communities, whereas the evidence is that the outcomes of segregated settings based on disability (such as autism) are inferior to the outcomes of mainstream-educated children (with disability and without).
 - a. **Are you concerned that a move to end segregated education could lead to the isolation of specifically children with more complex disabilities, in home schooling or in settings with a more limited group of peers?**

This is only a concern if the education system is not appropriately and sufficiently reformed to make it genuinely inclusive. This is likely to happen if the lived experience of people with disability who have been through the system is not listened to.

- b. **As we transition to an inclusive education model, is there a danger that those children who are ‘easier’ to include will be brought into the mainstream, relieving some of the pressure to end segregated schooling but exacerbating discrimination felt by children with disability left behind?**

Again, this is only a potential danger if the education system is not properly reformed to make it genuinely inclusive.

- c. **How do we plan to ensure that this doesn’t happen?**

We plan to ensure these types of risks do not eventuate by committing to fully inclusive education settings and systems, understanding that inclusion is a process not an outcome, and that there needs to be constant feedback via strong accountability mechanisms and a culture of ‘know better do better’ in the department of education and all schools, early childhood settings and higher education settings.

The Australian Coalition for Inclusive Education has a 10-year Roadmap to inclusive education which SPRW endorses. There are many experts in this area who know exactly how to take this forward. The experts who can be trusted and listened to in terms of achieving the inclusive education system we need to prevent such risks are those who centre the voices of people with disability in their work and preferably have lived experience themselves. That is the litmus test of which experts to listen to.

One point that SPRW wishes to make here is that there must be significant, non-partisan political goodwill and commitment – to listening to those with lived experience, and then to establishing the systems and the accountability mechanisms to ensure that the reform plan is followed at all levels.

It is apparent to SPRW from the many stories we hear from our members that the lack of accountability for failure to accommodate and educate our neurodivergent and otherwise disabled children is at every level. The examples of coverups and bullying of neurodivergent children and families by our education system can be so extreme and so shocking that if you hadn’t experienced similar yourself you might struggle to believe them. Suring up independent accountability mechanisms is critical to ensuring the success of the reforms to mainstream education, as is a culture change in the education department, the education community more broadly and governments in charge of the funding.

The federal government signed and ratified the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disability, among the other major UN treaties. It is therefore arguably ultimately the federal government’s responsibility to ensure inclusive education in Australia. Whilst constitutionally education remains a state power, SPRW believes that if states cannot ensure that their education systems are delivering equitable and inclusive education to all children, then there is cause to press for intervention on the basis of the state party’s failure to comply with its international treaty obligations.

d. How can children from the Deaf community be fully included in mainstream education while respecting and encouraging their bilingual language needs?

This is a question best directed at those with the relevant lived experience. See above regarding SPRW tentative position in relation to schools which are ‘segregated’ on the basis of culture or language.

2. In our inquiry we have heard evidence indicating that while people with disability overwhelmingly support inclusive education, parents and educators are more split on the issue. Why do you think this is?

We acknowledge that some stakeholders remain opposed to inclusive education, and that parents and educators without disabilities are included within this group in some instances. However, we suggest that this position stems from misunderstanding around truly inclusive education, as well as the significant gaps in current mainstream schools, rather than a value-based belief.

At SPRW we have members whose children attend segregated schools not because they don’t believe in genuinely inclusive education but because the mainstream experience was so horrific and traumatic. Neither our leadership nor our membership would ever criticise a parent for making that decision in the best interests of their child at the relevant time. However, those decisions are not real ‘choices’ because the mainstream options are inadequate and often outright abusive towards our neurodivergent children.

Moreover, listening to non-disabled parents who have chosen segregated settings for their children, we have heard three themes: (non-disabled) professionals have advised this course of action; parents did not even consider that mainstream would be an option; and/or parents have been afraid of how their disabled children would be treated in mainstream schooling, often in terms of bullying.

The reality of the choices made by parents to send their children to segregated settings is of course that they love their children and think they are doing the best by them, considering the circumstances they are in and with the knowledge they have at the time.

It is one thing for parents to make this decision in all the circumstances. However, it is quite another for the state to use ‘parental choice’ as a reason to maintain the status quo. In our view,

‘parental choice’ is a flimsy justification used by states to excuse their significant failings in fulfilling the right to an inclusive education guaranteed to students with disabilities by the UN CRPD.

We note that, Professor Andrew Byrnes, in his legal opinion to the Disability Royal Commission, found that there is no international right or obligation to support ‘parental choice to segregate’ when asked about the rights under international human rights law of students with disability to inclusive education. This also aligns with the CRPD’s recent ‘Guidelines on deinstitutionalization’ where they called on governments to end all forms of segregation, including institutionalisation, and said that governments should refrain from using ‘choice’ arguments to justify segregation based on disability and that being forced to choose between services and support options that do not comply with the UNCRPD is not a real choice.

It is on this basis that SPRW rejects the argument that non-mainstream schools are preferred by certain educators, and parents or carers. Our members, as parents of disabled children, many of whom are disabled ourselves, are deeply troubled by the reliance of some on using the superficial mantra of ‘choice’. We believe that such arguments are misleading and inaccurate, given that the current system does not reflect an inclusive single stream school system, but rather a choice between two inadequate options – segregation or inaccessibility.

We know that educators and parents are not actually choosing to violate children’s human rights but that the rigidity and inaccessibility of the current mainstream schooling system has placed them in this difficult position. Being given the choice of local schools that are not inclusive and do not provide children with disabilities with the environment and supports they need to thrive and segregated settings that may provide more supports but in an environment that separates students based on disability and perpetuates discrimination are not real choices.

Improving the current mainstream system and incorporating more accessible alternative pathways for all students to obtain an education will benefit all learners, not just those with disability, providing the ‘choice’ but doing so in a fully inclusive way.

Where it is not a matter of salvaging some form of education for a child with disability who has been excluded from the mainstream education system, or delivering an education as a teacher or administrator in a system without adequate training and resources (that is, two quite desperate personal situations), in our view, the difference between those who oppose de-segregation and those who support it is in the capacity to imagine a different mainstream – a truly inclusive mainstream. Those with neurodivergence or other disabilities themselves have a depth of personal

lived experience which appears to give a greater understanding of the failures of our education system and also the creativity and problem-solving drive to imagine different systems. At SPRW we have a human-rights based approach, but we are also a neurodivergent-led group and we see from our own experiences and those of our children that there are ways to make our schools inclusive and functional for all children, and those ways are not unrealistic or even particularly costly.

a. How do we bring parents, educators and the broader public on board with a planned transition to inclusive education?

There needs to be some truth-telling of the serious problems our system has, and this will be hard for many people involved in it. As parents who have come on our own journey with our neurodivergent children (often discovering our own neurodivergence much later than would have been ideal for us), many of us have had to accept that in following commonly accepted and heralded parenting approaches and/or in taking professional advice of certain types, we have done harm to our children. We did not want to or mean to but we have.

Equally, there are many educators and education administrators (as well as health professionals of all kinds) who have not intended to but have harmed children through their approaches. Very few educators would be comfortable accepting this but most will be able to if they are given the support needed to implement inclusive approaches that can enable them to deliver the education and the care that they have always tried to do. In our members' experiences, there are so many amazing teachers who know the training they have is inadequate and the approaches being mandated by their schools result in exclusionary environments and cultures for many disabled students as well as students with trauma backgrounds. They just don't have the knowledge or the supports to do different.

Those who cannot imagine an actually inclusive mainstream environment in which all disabled children would thrive need to be educated on both the need and possibility for those to exist in order for disabled children to be given opportunities that perhaps some parents and certainly the wider community never imagined would be available to those children. For this reason, media representation of disabled people is critically important and visibility of disabled people in all walks of life is essential. You can be what you can't see!

Ultimately, parents of children with disabilities who are fearful of how their children will be treated in the mainstream will need to see the change in the education system for themselves. That is understandable.

So it is up to the government, and the education sector to transform our education system with leadership and courage and conviction – knowing the evidence and the values align with this desegregation. And knowing that those most affected by this are backing it.

Teachers and principals need to be central to the reform process as their expertise is obviously critical. There must be resourcing commitments made by government so that transitions and reforms do not tax already stretched teachers. It is understandable that teachers and their unions are resistant to being given anything perceived as additional work when they don't have capacity or resourcing to do their existing work. However, from SPRW's perspective, teachers do know that serious change is needed, they just need reassurance they can trust that it will not all fall on them. Teachers have told us that recent pay rises came with cuts to other school budgets, leaving teachers, for example, to pay for an increased amount of their classroom stationary themselves. This is unlikely to engender trust amongst teachers that they will be properly supported through a major change like that which is needed for de-segregation.

It is critical to note that the interests of teachers and neurodivergent students are actually aligned. Inclusive, trauma-sensitive school environments with a focus on respectful and collaborative relationships between students and staff result in far fewer behavioural problems to deal with than the existing approaches based on compliance and control.

The public messaging is obviously very important when there is, in some quarters, a lack of nuance in understanding behavioural problems and disability. It will require strong commitment to not playing politics in this space and work together in what might perhaps be quite an unprecedented way! This is particularly challenging because it would require a commitment over at least a decade to stay the course and keep children – who can't vote – at the centre of the policy implementation.

There is a clear public interest in reducing the rates of alienation and criminalisation of children. And we know that this alienation starts at school, even preschool. The rates of people with disability in both youth justice and in adult prisons are hugely disproportionate. There are so many children who are not being engaged and equitably educated in our mainstream system as it stands. This is obvious through the increasing rates of 'school can't' across the country. Reforming our education system on inclusion grounds serves all children and in the long term, it produces a more

cohesive and inclusive community. This is seen most acutely in the need to reform our approach to schools from the perspective of disrupting the school-to-prison pipeline and re-engaging our most disadvantaged and excluded children, particularly First Nations children.

A further public interest argument is that in an immediate and narrow sense, it is less costly to educate everyone in an inclusive environment rather than to segregate and leave our mainstream environment in its current state of non-inclusiveness. The resources needed to meet the needs of disabled children can be shifted to the mainstream, and the infrastructure cost savings would initially be used to make the environmental and accessibility changes required for an inclusive, safe learning space for all children.

- 3. Were NSW to establish an independent complaints mechanism for families to raise issues within a school, what should this look like?**
 - a. Would NSW benefit from establishing an office similar to Victoria's Independent Office for School Dispute Resolution?**
 - b. Should the NSW Ageing and Disability Commissioner be resourced to proactively act to prevent discrimination against children with disability in our education system and ensure all children have an equal opportunity to learn in our schools?**

To uphold the human rights of students with disabilities as outlined in the Convention on the Rights of Persons with Disabilities (CRPD) and Australian anti-discrimination law, an independent complaints mechanism for families raising issues within schools should be established. This mechanism must prioritize accessibility, impartiality and effectiveness, fostering collaboration and resolution rather than assigning blame. However, it must also provide accountability.

Structurally, an independent body, separate from the school or Department of Education, should manage the mechanism. This could be a specialized commission or ombudsman with expertise in both education and disability rights, ensuring impartiality and avoiding conflicts of interest.

From our perspective, the NSW Ageing and Disability Commissioner does not seem to have expertise in relation to children or education. If an existing office were to be expanded to include this function it seems more appropriate that the NSW Ombudsman take on the role, with significant additional resourcing.

To facilitate accessibility, multiple avenues for submitting complaints should be available, including online forms, phone calls, and in-person meetings. This accommodates diverse communication preferences and ensures that all families can easily access the mechanism. A clear, transparent process should be established, outlining the steps involved in filing a complaint, the expected timeline for resolution, and avenues for appeal. This process should be easily accessible and understandable for all families.

To further support families, resources such as information guides, advocacy services, and legal aid should be readily available throughout the complaints process.

Complaints should be subject to thorough and impartial investigation, gathering evidence from all parties involved through interviews, document reviews, and site visits. Mediation and restorative practices should be prioritized to encourage communication and find mutually agreeable solutions whenever possible. However, if mediation fails, the independent body should have the authority to make binding decisions, with clear guidelines for enforcement and potential consequences for schools that fail to comply.

This mechanism should also focus on identifying systemic issues within schools, and more broadly across regions and the state. By collecting and analysing data on complaint types, patterns and trends can be identified, informing systemic improvements in policies and practices at school and department level. Regular feedback should be provided to schools and the Department of Education, fostering a continuous improvement cycle.

Additional considerations include ensuring the confidentiality of all parties involved and striving for timely resolution of complaints to prevent prolonged distress for families and students. Crucially, efforts should be made to involve students, particularly older ones, in the complaints process to empower their voices and promote self-advocacy, aligning with the CRPD's emphasis on respecting the autonomy and agency of individuals with disabilities.

We suggest that rather than drawing upon models that exist in other states, such as Victoria, it would be most appropriate for NSW to develop its own process and protocols for this function, learning from the acknowledged gaps and flaws in the designs of other systems approaches. Whilst some aspects of the Victorian model may be useful, we do not suggest a replication of this design. Anecdotal feedback from our members and networks in Victoria indicates low awareness and minimal community confidence in and/or capacity to engage with this model. We note that by the

time parents are at the point at which the Victorian model engages, they are exhausted and often in complete crisis.

NSW has the opportunity to take learnings from Victoria, listen to families affected by complaints which have not been adequately dealt with in that jurisdiction, or perhaps were not able to form the basis of a complaint, and consider what improvements to that model could be made.

It is our position that while mediation and dispute resolution mechanisms have their place, they are insufficient on their own to fully address systemic issues hindering inclusive education. SPRW members who have used the NSW Anti-Discrimination Board have found the ability to get an enforceable outcome in that setting to be a positive as well as the capacity to be helped through the process more formally. In contrast, SPRW members who have used the Australian Human Rights Commission have felt that they get more traction and engagement with the department when they hire a lawyer so that the threat of Federal Court action is more real. This is not meant to be the point of the AHRC conciliation process. Both of these mechanisms of course only deal with complaints that can fit within anti-discrimination law.

We urge the Committee to recommend robust processes for monitoring and enforcing the right to inclusive education. More crucially, we call for the enactment of a legal and policy framework that aligns with Australia's human rights obligations under the CRPD, specifically Article 13, to ensure effective access to justice for people with disabilities. This framework should drive systemic and cultural change at a whole-of-system level, ensuring that inclusive education is not only a right but an achievable reality for all students.

We also draw attention to the recommendations of the Royal Commission into Violence, Abuse, Neglect and Exploitation, particularly recommendations 7.6 and 7.10, which emphasize the importance of co-designing effective complaints handling and informal resolution processes with people with disabilities and their families. SPRW suggests that these recommendations and the relevant findings contained within the Royal Commission final report provide a strong framework that NSW can draw upon to establish an effective and accessible independent complaints resolution body to safeguard and defend the rights of students with disabilities.

4. What could a shift from behaviourism toward a focus on collaborative proactive solutions look like in the NSW education system?

The Collaborative Proactive Solutions (CPS) model emphasizes a partnership between educators, parents, and students to better understand the root causes of the behaviour and work together to

find mutually agreeable solutions. By shifting the focus from blame and punishment to problem-solving and understanding, the CPS model creates a more empathetic and effective way of supporting students facing behavioural challenges.

Research has shown that this approach leads to improved relationships between educators and students, as well as better academic and social outcomes for students. Implementing CPS in the NSW education system could foster a more inclusive and supportive learning environment where the needs of every student are met with respect and understanding.

To successfully implement the Collaborative Proactive Solutions (CPS) model within the NSW education system, several key steps must be taken. Dr Greene's websites <https://livesinthebalance.org/> and <https://cpsconnection.com/> set out the process for embarking on this reform and how schools will be supported to undertake it. The resources are all provided free on the websites and Dr Greene has said in previous meetings between SPRW and the NSW Department of Education that he would be happy to provide free training to any NSW school that is ready to embrace CPS.

It is worth noting that there are a few fully trained CPS practitioners in NSW who would be able to coach schools through the process and provide ongoing support.

First and foremost, a comprehensive suite of professional development programs should be designed and implemented to equip teachers and school staff with the knowledge and skills necessary to embrace the principles and practices of the CPS model. There has been some good progress in the professional development resources in the NSW Department of Education, but professional development options should be the subject of an audit from the perspective of those with lived experience of disability and in particular, neurodivergence and trauma backgrounds. The training needed should focus on understanding and identifying the underlying causes of challenging behaviours, as well as the strategies for collaborative problem-solving with students.

The lens shift on how concerning behaviour is understood from a neuroscience perspective, and how students with concerning behaviour are viewed, is the critical foundational step. This essentially forms the first part of CPS training.

Additionally, departmental and school policies and practices should be revised to align with the CPS model, emphasizing a shift from reactive disciplinary measures to proactive and collaborative approaches to behaviour support. Dr Greene has considered the capacity of PBL/PBS-based education systems to implement CPS without first removing PBL and believes that this is a viable

way forward. What Dr Greene has found is that CPS fairly quickly makes PBL measures for Tier 2 and 3 students redundant as the unsolved problems resulting in the behavioural challenges get solved.

Finally, continuous access to professional mentoring and ongoing development should be available through the department of education.

We suggest that the rollout of PBS offers a useful roadmap as to how the behavioural policies, procedures and processes can be revised, statewide.

There is also the option of selecting schools to begin trialling CPS. Dr Greene himself has noted that a state-wide rollout is a large undertaking, whereas transforming say, ten schools at a time, may be easier in the NSW context. Dr Greene would no doubt be very willing to discuss this further.

There are also several schools in NSW and more in other states who have implemented CPS however there has been no coordinated approach to evaluating how the implementation went in those locations and taking lessons from them. Currently, there is some very promising CPS implementation going on in a particular part of WA which SPRW would be happy to provide further information and contacts regarding, if the Committee or the Department is interested in that.

Given that successful integration of the CPS model has occurred in entire education districts in the US, we suggest that the Committee consult with Lives in the Balance and Dr Ross Greene to obtain guidance on the transition processes that have been successful in the past. We have facilitated an introduction under the previous NSW Government and would be happy to facilitate further introductions and conversations between Dr Greene and relevant committee members, ministers, departmental staff, unions, etc. Alternatively, Dr Greene would undoubtedly welcome direct contact.

5. Which recommendations from the Disability Royal Commission does Square Peg Round Whole support?

We attach the Disability Royal Commission Final Report response developed by Square Peg Round Whole in response to this question.