

“SEN’s completely different now”: Critical Discourse Analysis of Three “Codes of Practice for Special Educational Needs” (1994, 2001, 2015)

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Acknowledgements: Grateful thanks are due to Dr. Jane Moreton, Mrs. Su Fagg and Mr. David Burch at the University of Worcester for practical assistance.

Word count: 6250 without list of references, 7485 including the list.

Abstract

Regardless of the differing shades of neo-liberalism, successive governments have claimed to champion the cause of “special educational needs and disability” (SEN D) through official Codes of Practice in 1994, 2001 and 2015. This analysis and comparison of the three Codes of Practice aims to contribute to the debate by exploring aspects of the documents themselves. Each Code of Practice aims, or at least claims, to overcome past barriers and the 2015 version explicitly heralds a radical overhaul of the SEND system.

In this paper, elements of Critical Discourse Analysis (CDA) are used in exploring the 3 documents, with particular emphasis on the 2015 Code. The conclusion is reached that while the fundamental stance on SEN D remains unchanged in 2015, radical change is present and is all the more radical for being hidden in plain sight, delivering commissioning and procurement and a potentially arms-length approach to provision. As an integral part of the overall school system, the 2015 context for SEND is one of school diversity and choice and the model is of private sector competition and entrepreneurship in a context of austerity.

Keywords: Special Educational Needs and Disability Code of Practice; policy; neo-liberal; critical discourse analysis.

Introduction and rationale

The summer and autumn of 2014 was an intensely busy time for those concerned with the co-ordination of education for pupils with “special education needs and/or disability” (SEND) in England. Updates, briefings and courses and extensive paperwork in schools heralded and accompanied the release of the Code of Practice for SEND which came into effect on September 1st 2014¹.

This most recent Code of Practice (DfE, DoH, 2015) related to the Children and Families Act (2014) and followed from the Coalition Government’s “Support and Aspiration” Green Paper (DfE 2011). Stating that “the system needs radical reform” (15), the Green Paper referred to “radical” difference or radical overhaul, radical reform (and so on) nine times. The 2015

¹ The Code was updated in the following January and it is this 2015 version which is referenced and considered here.

Code of Practice does indeed draw on and explicitly set out the changes from the 2001 Code (DfE, DoH 2015, 13-14), as does the 2001 Code in relation to the 1994 version (DfES 2001, iv). Numerous commentaries, such as that by Cowne, Frankl and Gerschel (2015), summarise the changes. Norwich (2014) argues, however, that that much of the brave new world was not radically new at all but merely “extending, integrating and tightening up existing principles and practices” (415). What was profoundly radical were factors linked to changes in the wider education system in governance, accountability, funding and moves to a “user-led model” (Norwich, 416).

This paper, a documentary analysis and comparison of the 1994, 2001 and 2015 Codes of Practice aims to contribute to the debate by exploring the changes within the documents themselves. It aims for in-depth analysis of the documentary evidence and aspires to Norwich’s important principle of “connective specialisation” (Norwich 1995, 2014) which takes as given the interdependence of the SEND system with the rest of the school system.

Literature Review

Although evidence is small-scale and limited, some early indications are that that the 2015 Code has not actually improved provision for children and young people. Less than a quarter of 512 parents surveyed by the National Autistic Society who have been through the new EHCP system were satisfied with it (NAS 2015,10). A study by the National Deaf Children’s Society seems to offer a similar picture and also echoes a lack of clarity perceived in relation to “Local Offer” (NDCS 2015). Pupils with SEN are still more likely to be excluded than other pupils (Broach, Clements and Read 2016, 152-3, citing DfE figures).The same source indicates a 2.5% decrease in numbers of children recognised as having SEN. Fewer EHCPs are also being issued compared with the former Statements of Special Educational Need (NAS 2015, 11). Both Broach, Clements and Reid (2016, 161) and Nettleton and Friel (2015, 11) suggest that the timescale of implementation of the Children and Families Act 2014 which underpinned the 2015 Code may have been too rushed. Nettleton and Friel are parents of children with SEN D, but all 5 authors write from their perspectives as lawyers. The Pathfinder Pilot schemes for the 2015 Code appear to have been similarly rushed with no clear assessment criteria (Nettleton and Friel, 13).

Another early attempt to evaluate the effects of the 2015 Code, the Driver Youth Trust report (Bernardes, Shaw, Menzies and Baars 2015) carried out by think tank LKMco,² focussed on the effects of reforms of the “last 5 years” (3) on learners with SEND with particular reference to dyslexia. While the Bernardes *et al.* research is small in scale, relying on 17 interviews and 8 case studies along with Freedom of Information requests, the reports of some high quality provision but considerable variation (15) is not unfamiliar. It chimes, for example, with the Lamb Report on parental confidence in the SEN system (DCSF 2009). In particular, the Driver Youth Trust’s authors argue that changes to local authorities have been “poorly communicated and inconsistently executed” (Bernardes *et al.* 3). They note that the “dominant rhetoric” behind the 2015 reform is autonomy (3). While that has led to some

² LKM are the initials of the think tank founder.

substantial developments, there has been over-reliance on signposting and that fragmentation has made navigating the system “next to impossible” with the claim that good schools continue to improve with others lagging further behind (15).

Much of this is, in turn, unsurprising and in line with neo-liberal government thinking over the last 40 years, in particular the competitive and “individualised turn” (Wilkins 2010, 171; Macleod, Pirrie, McCluskey and Cullen 2013, 389). Although differing in presentation and always with a flavour of social inclusion, the New Labour period (1997-2010) can be seen as a continuation of the previous Conservative administration’s commitment to raising standards, assessment and performance testing, with the neo-liberal agenda of parental choice and diversity of provision always present (Norwich 2014, 412). Since 2010, however, what Norwich and Black see as a step-change towards “market-style public service policies” based in autonomy, choice and diversity (Norwich and Black 2015, 130) has taken place. The context is of private sector models, redolent of competition and entrepreneurship.

Despite this chronological characterisation of the New Labour period as a relatively inclusion-flavoured filling within a Conservative sandwich, it is recognised that Special Educational Needs and Disability occupy a particular place in government concerns. Regardless of the differing shades of neo-liberalism, successive former Conservative, New Labour, Conservative-Liberal Democrat Coalition and current Conservative government rhetoric continues to claim to champion the cause of SEN D. The counterweight is that SEN and inclusion policies were always of less importance than the standards agenda (Norwich 2014, 414). As Hellowell (2015) puts it, the Coalition’s “Support and Aspiration” Green Paper (DfE 2011) explains the widely recognised underperformance of the SEN system by “inadequate guidance for local professionals, rather than by the inherent complexities of the cases those professionals are seeking to support” (Hellowell 2015, 119). The 2011 Green Paper refers to the then proposed new Code of Practice as being intended to “simplify and improve” the statutory guidance so that it is accessible, withdrawing guidance that does not provide useful support. (DfE 2011, 98). The standards agenda and related challenges are excluded from the frame.

The argument that changes are superficial applies not only to the Codes of Practice and is also seen, for example, in relation to personalised budgets in general. In that context, Beresford (2009) argues that, aside from rhetoric, there may be little more than “rebadging... the language of consumerism and control does little more than overlay arrangements that remain essentially the same” (2) ³. Norwich (2014) argues that the changes in the 2015 SEND Code of Practice are marginal and purely procedural, “Education, Health and Care Plans”, for example, being simply educational plans but with health and social care needs included insofar as they relate to SEN (416). Veck (2014) argues convincingly that the Local Offer of the newest Code is, similarly, a re-iteration of a special provision and even pedagogy (784), a “specialist undertaking” (785) being assumed. However, there is a strong case that this is more than the status quo and that significant shifts are hidden, all the more so for being hidden in plain sight. Allan and Youdell (2015) suggest that the 2015 Code, in addition to

³ Commenting before personal budgets appear in the 2015 Code.

being a further development in the “SEN industry” as described by Tomlinson (2012) does represent a “new terrain for conceptualising, administering and responding to SEND” (Allan and Youdell 2015,2). Above all, Allan and Youdell describe the child or young person, as well as pedagogic and curriculum practices, as “ghosted” in the 2015 SEND Code (6, 8).

Significant ghosting can also be seen in the quasi-market of provision which has built over the last 30 years (Allan and Youdell 2015, 6). The market is not absent but takes on “a spectral quality as a mutated local state and competitive field of provision take shape” (6).

Allan and Youdell (2015) see the 2015 Code as a substantive document which sets out very many mandatory activities but “ghosts their content” (6) so that any evidence-based practice can be carried out by any provider. Professionals must, as Allan and Youdell put it, “inform, assess, consult, document, publish, plan and review” and all to variously specified timeframes (7). However, the “architecture” is empty and content-free in that all responsibility moves to the various actors in the processes (Allan and Youdell, 7). The state is “securer of services in a decentralised, deregulated” marketplace that “includes many non-state players” (8) In the context of small government and “reluctance to regulate practice” (Norwich 2014, 419), Norwich points out that the 2015 Code tends to “even more generality in its guidance about assessment and identification” than the 2001 version (419). The provision is “over there”, the reader must “go and get it” (Allan and Youdell, 7). Going to get it, however, is not easy for three interconnected reasons: discrimination and power, the context of austerity and the emptiness of the rhetoric

Taking ideological / discrimination barriers first, clear evidence is emerging that converter academies (governed by their own governing body) have lower proportions of students who have significant special educational needs than sponsored academies (those required to become academies) and LA maintained schools (Norwich and Black 2015, 128). There is also small scale and anecdotal evidence of some academies being reluctant to accept pupils with significant special needs (Institute of Public Policy Research 2014 cited by Norwich and Black 2015, 131) or re-locating them within an academy group or chain (Perraudin 2016). Macleod, Pirrie, McCluskey and Cullen (2013), writing of pupils who have been excluded from specialist provision, point out that choice is complicated in relation to pupils with SEN and largely illusory for pupils with a history of challenging behaviour and exclusion (389).

Turning to financial barriers to choice, the 2015 Code is implemented against a background of austerity. Veck, writing in 2014 highlights the contradictions inherent in the Coalition Government’s regime of benefit cuts, “removing the bias towards inclusion” while presenting a vision of empowerment and independence for disabled people (Veck, 777). Veck records how this sense of empowerment, “personalised care and education and the advancement of freedom of choice and independence” (779) can be seen in the 2015 Code of Practice with its pledges of parental choice and personal choice (Veck, 779). However, there is no fiscal commitment in the 2015 Code and it is about choice in the context of austerity and “austerity economics” (Allan and Youdell, 8), of small government.

The emptiness of the rhetoric is difficult to evidence but has not gone unnoticed by parents and others, not just in relation to the Code of Practice. Interviewed for the BBC about mental

health services, Steve Mallen, father of Ed who committed suicide in 2015 is a compelling witness to “Orwellian rhetoric where the government are always announcing ever bigger numbers and ever more initiatives and yet the real experience of real people in real school in real families and real communities isn’t changing on a day to day basis”. Fragmentation is key in a system where support is bought and sold, including work in the tribunal process. In the context of austerity, local authorities seeking to control expenditure pay close attention to the process. Solicitors Baker Small recently apologised for the jubilant tone of tweets celebrating their “wins” over parents of disabled children but the system which promotes the adversarial approach is sharpened by the times (Gentleman 2016).

Methodological orientation

The aim of this current study is to provide an overview of each of the three Codes of Practice and to compare and contrast key ideas and themes in the documents themselves. The approach is textual analysis, using aspects of critical discourse analysis (CDA) with elements of semiotic analysis (analysis of graphics where used) and content analysis and word occurrences and recurrences are counted and compared.

Textual analysis

This paper looks at the words of the SEND Code of Practice. CDA, a “loose combination of approaches” (Machin and Mayr 2012, 1), essentially based on the possibility that analysis may discern “frozen theories” (Gee 2008, 97) or even “master myths” (2008, 111), offers critical methodological insight within the contested field of SEN D. Drawing on the ideas of Barthes, Derrida and Foucault, CDA rests on Saussure’s insight that the link between the signifier (word) and the signified (concept) is arbitrary, not just in terms of the words themselves but, more fundamentally, the way “we have divided up our world into arbitrary categories” (Burr 1995, 37). So in CDA, language is never neutral (Burr, 34) but words are texts which, via different levels of meaning, construct the social world, operating even as “ideological instruments” (Machin and Mayr, 2). Words produce “moment by moment, our social, political, cultural, and institutional worlds” (Gee 2004, 48).

The Codes of Practice were considered using a simple framework used previously by the author (XXXX 2016, 9-10) and based on the work of others. This means exploring, comparing and contrasting the three Code of Practice documents using a range of techniques. Approaches and techniques included: *analysis of topics / macro-positions* (Wood and Kroger 2000, 109, Van Dijk ,102), *word frequencies*, *thematic structure* (Rogers 2004, 56), *general “analytic orientation”* (Wood and Kroger, 91), *intensifiers* (Holland et al.,151, Reisig and Wodak 2001 cited in Meyer 2001, 27, Bloor and Bloor, 103), *collocation* (Bloor and Bloor 2007, 130), *omissions* (Wood and Kroger 2000, 93), and *rhetoric* (Burr 1995,156 citing Billig 1990, Bloor and Bloor 2007, 67). Inevitably, aspects of these techniques overlap. [The ‘grammar’ of visual design](#) (Kress and van Leeuwen, 2006) [was also considered](#) alongside text in relation to the front covers of the Codes of Practice. This [draws on Barthes’ insights on semiotics where an image](#), as text, [connotes general or abstract ideas](#), beyond what is immediately signified ([Machin and Mayr 2012, 50](#)).

Ethical clearance was obtained from the author's employing University. New copyright exception (Intellectual Property Office, 2014, 6), allows researchers to make copies of documents and "mine data" for copyright material, allowing researchers computational analysis if they already have lawful access to read the work. The three Codes of Practice are in the public domain as statutory guidance.

The 2001 and 2015 Codes of Practice were readily available in PDF form. Word counts were recorded for these two more recent Codes of Practice, using a PC's automatic word-counter. The 1994 version is not electronically available. This Code was scanned, the scanned PDFs converted to Word documents and the automatic word-counter was again used. There were inevitably anomalies in relation to word counting and, while every care has been taken, there is no claim to absolute accuracy. The Word document produced to allow use of the word count and search facilities for the 1994 Code was of a good standard but some words occasionally break up. For example, "proportion" might be broken into two words: "proportion". The decision was taken that the time needed to check every word would be prohibitive. The second main anomaly was that automatic word counter takes spaces as part of the word count for the 1994 Code so that the "special educational needs – code of practice" footer shows as 7 words where the same wording on the 2001 Code shows as 6. However, the 1994 Code apparently includes footers in the word count whereas the 2001 Code does not. The decision was therefore taken to use the automatic count as is for 2001 but to subtract the header count where relevant for 1994. The 2015 Code contains no headers or footers.

Findings and discussion

Data was analysed according to a broad CDA framework (including analysis of topics / macro-positions, word frequencies, thematic structure, general analytic orientation, intensifiers, collocation, omissions and rhetoric).

[Table 1 near here]

Analytical frame: Macro-positions and topics in the Codes of Practice

Authorship and applicability simply reflect background UK political dynamics, perhaps the most notable difference is the joint authorship by the departments of Education and Health for 2015. The titles of the three Codes differ and the 1994 Code's direct reference to "identification and assessment" is perhaps the most active, practical title. The 2001 Code has the most minimal title of the three, "Special Educational Needs Code of Practice", 2015, the longest of all at 32 words.

The visual representation on the front covers contribute to the tone set. 1994's front cover has a graphic of a large and a small hand, possibly reaching for each another. The slightly smaller accompanying photograph shows a smiling female teacher looking over the shoulder of a child writing. The portrayal seems to be of help and support. The 2001 front cover has three pictures: three children in profile writing, two smaller pictures, one man and three children engaged in a practical/scientific activity, three children in an outdoor PE lesson, one looking

very happy. The 2001 version is the only one with a photo of the relevant Secretary of State, Estelle Morris is pictured smiling. Active engagement and group action seem to be portrayed. The 2015 version has no photographs or pictures at all, perhaps a clue to a business-like and apparently neutral or content-free agenda.

[Table 2 near here]

Continuing the analysis of macro-positioning, the 1994 Code's direct title reference to "identification and assessment" implies a practitioner-oriented approach with about 14 pages (55-68) focussing on 8 areas of need (specific learning difficulties, emotional and behavioural, physical, sensory, medical needs and so on). The 1994 Code includes corresponding reference to practical considerations and examples such as handrails and lighting (65) and software (67). This Code reads as practical guidance, using the language of school and of classrooms. There are clear and simple visual representations of the school-based staged response (35-37) and this Code tends to the procedural.

The 2001 Code significantly condenses 1994's 8 areas of need over 14 pages into 4 areas discussed on around 4 pages (communication and interaction, cognition and learning, behaviour, emotional and social and sensory / physical development, 85-89). Again, the tone of the 2001 Code is accessible, at least within the context of schools. The 2015 material on areas of need is further slimmed to two pages (97-98) with specific organisations (I CAN, SpLD Trust and so on) linked in the appendices. By contrast with previous versions, the language of 2015 is relatively complex and tends to the technicist. ~~For example, a significant difference in terminology is the change from "behaviour, emotional and social development" (2001) to "social, emotional and mental health difficulties" (2015), the medical slant of "mental health" being assumed rather than explicitly justified. The 2015 Code appendices include one relating to Mental Capacity.~~ Many new concepts are introduced, including joint strategic needs assessment, joint commissioning arrangements, personal budgets, Local Offer and so on. The emphasis on joint-working covers not only the Local Offer but the range of Clinical Commissioning Groups (CCGs), Joint Strategic Needs Assessment (JSNA), Health and Wellbeing Board, Allan and Youdell's "complex alliances" (2015, 7) with accompanying acronyms and abbreviations. Much of the material seems beyond the remit of the classroom teacher.

[Figure 1 near here]

~~A~~ For example, a key difference in terminology is the change from "behaviour, emotional and social development" (2001) to "social, emotional and mental health difficulties" (2015), the medical slant of "mental health" being assumed rather than explicitly justified. The 2015 Code appendices include one relating to Mental Capacity. It can be argued that just as 'behaviour' disappears, the potential is for those children, or at least those not deserving of an 'autism' or other clinical diagnosis to also "disappear", to commissioned 'alternative provision'. The context of the time and the rest of the school system is worth noting in that the term "bad behaviour" is used in the coalition's White Paper for Schools (DFE, 2010) Foreward (3) and Executive Summary (8) and twice more. The wider public and cultural

context has been described by Rowan Williams, former Archbishop Of Canterbury, as characterised by “a quiet resurgence of the seductive language of deserving and undeserving poor”.

Analytic frame: Word count and frequency and thematic structure

Each successive Code of Practice is longer than its predecessor. The 1994 Code consists of 52,025 words, the 2001 65,505 and the 2015 version 99,010 in the main documents (omitting the regulations appended in each case). While the 2015 edition is still only a fifth or sixth of the word count of the Bible or War and Peace, it is well over a typical Ph.D word limit. My printout weighs over 1.3 kilos and is a very substantial read⁴. There seems to have been little research in respect of general trends in document length but this upward trend seems unsurprising. In an unrelated field, Berger *et al.* (2009) found that length of consent documents in oncological trials doubled in 20 years (1987 to 2007). Perhaps this is partly about modern apprehensions. Research on different countries’ constitutions suggested national trust levels were “robustly and negatively associated” with the length of their constitutions (Bjørnskov and Voigt, 2014, 91).

The greater quantity of words is reflected throughout the 2015 version. The title is the longest of the three Codes. The list of bodies who must have regard to the 1994 Code were schools, health and social services with the addition of early years settings in 2001. The 2015 list of those who must “have regard” includes LAs, governing bodies of schools and colleges, academy proprietors, management committees of pupil referral units, independent schools and approved specialist providers, all early years providers that are funded by LAs, NHS Commissioning Board, clinical commissioning groups, NHS and Foundation Trusts, Local Health Boards, Youth Offending Teams, relevant youth custodial establishments and so on.

[Table 3 near here]

As well as the numbers of words and pages, the number of chapters increases in the successive Codes: 6 in 1994 become 10 in 2001 and 12 (11 plus an un-numbered introduction) in 2015. The longest chapter in 2015 (chapter 9) covers EHCPs in 55 pages.

[Table 4 near here]

The general impression of a substantive document could feel quite intimidating, probably never intended for the busy classroom practitioner or individual parent. Allan and Youdell (2015) describe this current Code as “261 turgid pages” (6) and it is hard to disagree!

Turning from overall word count to frequency of particular words, “must” is used rather more often in the 2015 Code, 0.68 % of the total word count as opposed to 0.40% and 0.41% respectively in 1994 and 2001. Unsurprisingly given the changing party political context, words such as inclusion or the “inclus” stem are at their height in 2001, used about twice as often as in 2015 and as compared to almost no mention in 1994. Similarly, the emphasis on

⁴ It is interesting to note that the “Support and Aspiration” Green Paper states that the, then forthcoming, Code will be a modernised and improved version through being shortened (DfE 2011, 98)!

procurement is seen in 2015 with 0.23% of the word count compared with negligible mention in 2001 and none in 1994. Of course, “commission” appears for almost the first time, used only once in 1994 and 3 times in 2001, it appears 236 times in 2015.

[Table 5 near here]

The recommended model of “assess, plan, do, review” in the 2015 Code is probably the least prescriptive and entirely content free, in the sense of leaving open *what* is planned .

[Table 6 near here]

Analytical frame: intensifiers

From the CDA perspective, Fairclough (2003) describes contemporary policy texts as “promotional rather than analytical, concerned more to persuade people that these are indeed the only practicable policies than to open up dialogue”(96). “Hortatory” descriptions, with a covert prescriptive intent, aim at getting people to act in certain ways on the basis of representations of what is (96). Citing the work of Habermas on instrumentality, Fairclough (2003, 98- 99) describes “the building up of a picture of the new age” and explains that such narratives can have the characteristics of both the “moral tale” where good things will happen if we implement the policies and the “cautionary tale” where certain bad things will happen if we do not (99). Thus, while not intensifiers in the usual grammatical sense, the orientation using “must”, a large volume of material and many new concepts including the joint strategic needs assessment, joint commissioning arrangements, Personal Budgets, Local offer, EHCPs and so on, perhaps the sense of important and intensified activity. Essential activity is also conveyed.

Perhaps this is especially important since the status of all three versions of the Code fall in a grey area somewhere between statutory regulation and advisory circular (Cowne, Frankl and Gerschel 2015, 4). Each Code requires bodies to “have regard to” it (1994, 1; 2001, 3; 2015, 12). While elements of the document clearly reflect statutory legislation, the rest is of intermediate, even non-binary (neither statutory or non-statutory) in status. The 1994 Code refers to “practical guidance” (Foreward, i), seeking to “help schools and LEAs obtain best value” from the resources they devote to children with SEN. The 2001 Code refers to “practical guidance” on carrying out “statutory duties to identify, assess and make provision” for children’s SEN (iii). The 2015 Code does not use the phrase “practical guidance” but is alone in referring to “statutory guidance” both in the document title and the first page of the introduction (12). Interestingly, however, the word “statutory” appears in the 2015 text less often than in the other two, 0.08% of the word count and 89 mentions compared with 0.29% or 194 mentions in 2001. As already noted, however, “must” is used 681 times in the 2015 Code.

The overall impression conveyed by the 2015 Code can be read almost as an invitation to tender, packed with procedural “musts”, schedules and timescales. There are shades of this, too, in the title headings for the sections on early childhood education. In 1994 the section was called “Assessments and Statements for Under Fives” (1994, 99), in 2001 it becomes

“Identification, assessment and provision in early education settings” (2001, 32) but in 2015 it is “Early years *providers*” (2015, 78). “Working together” in 2015 is about joint commissioning. The word “cost” is mentioned 3 times as often (30 times) as in 2001, mentions being minimal in both 1994 and 2001.

Analytical frame: collocation

Uses of the word “learning” were compared across the Codes. In each case, the word was counted then a second count was made when the word was used in its general open sense and co-located use as “learning difficulty” or “learning barrier” and similar were discounted. While this was an inexact and inevitably subjective approach, the broad results are interesting. In the 1994 Code, learning is used 108 times, 17 times in its general (not “learning difficulties” sense). In 2015 the word learning is used 151 times in all, about 79 in its general sense. The greatest proportion of use is in the 2001 code where from 186 overall uses, 152 uses did not relate to difficulty. Again, a broad interpretation is that the 2001 seems most concerned with education and open to learning as an active possibility.

Analytical frame: omissions

An interesting omission in all three Codes is any sense of what inclusive practice might look like. While obviously sensible to avoid prescription and to ensure time-proofing, there is scarcely a word of direct advice about children’s entitlements or what schools or others should actually offer. There is one (useful) reference to labelling issues in the 1994 Code (122) but no mention at all in subsequent Codes. Neither there is any information about, and therefore no stance on, other key issues within the field. For example, there is no mention at all of how far there is or is not a special pedagogy in SEND (as discussed by Lewis and Norwich 2005, Hanks 2011), about disability-friendly (or, for example, dyslexia-friendly) practice as discussed by Pavey (2013) or of universal design. Medical nor social models of disability are mentioned in none of the Codes. Similarly, while aspirations to high standards of education for all are frequently espoused, there is never any interrogation of the relationship between disability and standards, poverty or minority. The word “poverty” appears in none of the Codes. A key assumption is of SEND as a given, a set of needs to be serviced. In 1994 those with special educational needs were to be identified, in 2001 they were to be included, in 2015 they are to be provided for. Thomas’ (2013) closely argued case on the resilience of the idea of “constitutional difficulties” in children and young people and “the ruts of twentieth-century thinking on exceptionality” (2013, 474) and “within-child” thinking come to mind.

Analytical frame: rhetoric

Successive Codes and commentaries on them tend to highlight both the import of the latest change and the technical demands of implementation. For example, Coles, in a Foreword to Goddard and Tester (1996) writing about the 1994 Code, refers to the situation before the

Code where “improvement was necessary” and “there was considerable dissatisfaction and frustration... schools struggled” (v).⁵

Unsurprisingly, there is some rhetoric, for example where the application of adjectives conveys an impression but, on examination, is fairly formulaic and empty of meaning along the lines of “motherhood and apple pie”. For example, in the 2015 Code, “aspirations” are “high” (Dfe, DoH, 4, 5, 14, 28, 79, 92, 120, 122, 124), but they would hardly be described as low so it is hard to know what is really meant beyond the hortatory.

All the Codes regularly state that something “should” be done, while this is a slightly weaker form than “must”, this is laudable in that it can be seen to be holding someone to account. On the other hand, given that the statements tend very much to the procedural, the rhetoric seems empty. A typical example is “this transition should be planned with timescales”(DfE , DoH 2015, 140). This does not seem to gain any specific ground but could be read simply as almost a checklist for providers.

“Expertise” is mentioned in the 2015 Code 27 times and “specialist” 103 times. Both words appear with a similar frequency in all three codes except that the word “expertise” is used minimally in 1994. There is rarely, if ever, a sense of what this expertise might mean.

Summary

In summary, a range of elements including front cover pictures, overall word count, word choices and various elements of discourse indicated that in broad terms:

The 1994 Code (52,025 words) has perhaps the most active, practical title and the cover picture portrays adult support. A practitioner-oriented approach focusses on 8 areas of need with some reference to practical considerations such as handrails and software. The language is of school and of classroom and tends to the procedural. Learners with SEN are to be identified and assessed.

The 2001 Code (65,505 words) has the most minimal title of the three and active engagement and group action are portrayed on the front cover. Needs are condensed into four areas. Again, the tone is accessible, at least within the context of schools. Words like “inclusion” are at their height in 2001, used about twice as often, as in 2015. Those with SEN are to be engaged and included.

The 2015 Code (99,010 words) has no photographs or pictures, a business-like and “content-neutral” agenda. Material on areas of need is slimmed to two pages with specific organisations linked in the appendices in an “arms length” approach. The tone of the language of 2015 is relatively complex, tending to the technical. Many new concepts and procedures are introduced, though the recommended model of “assess, plan, do, review” in

⁵ The sub-title of Cheminai’s (2015) book: “practical guide to the *new* changes” is almost tautological, change and newness could not be emphasised more.

the 2015 Code is probably the least prescriptive. There is a corresponding emphasis on procurement and commissioning. The overall impression of the discourse in the 2015 Code is almost of an invitation to tender, packed with procedural “musts”, schedules and timescales. Those with SEN are to have services provided and commissioned for them.

None of the three Codes consider what inclusive practice might look like. Similarly, there is no mention of models of disability, of the “special pedagogy” debate, nor disability-friendly practice or universal design, nor any interrogation of the relationship between disability and standards, poverty or minority. The word “poverty” never appears in any of the Codes. The nature of SEND is assumed and given, a set of needs to be serviced, albeit through a choice of means. SEND approaches are a “specialist” undertaking but what that specialism and expertise might address is always obscured.

Conclusion

A CDA approach, relatively rarely used in the field of SEND, can be a useful adjunct to policy analysis. Alexander’s (2004) resounding critique of New Labour’s “Primary Strategy”, based in part on the language of the documents themselves, characterises that policy as confirming “the continuing hegemony of the culture of pragmatism and compliance”(30). The 2015 Code comes from the same stable in the sense of trying to ensure compliance with bland statements of the fairly obvious but this analysis also indicates substantial new ground in education policy as almost a private tender document.

The combination of omission and rhetoric in the text contribute to hiding radical change in plain sight in the 2015 Code. Many factors may be seen to contribute to this effect. Not least, many of the Code’s signifiers (words and, occasionally, graphics or lack of them) are particularly abstract and resistant to clear explanation. Just for example, when the Code states that “CCGs should engage with local Healthwatch organisations’ (42) it is hard to have any picture of what this might mean or look like. There is an interesting link here with Lacan and Derrida’s critical treatment of the Edgar Allan Poe detective story of the Purloined Letter (Muller and Richardson 1988). A letter of great but unspecified importance is hidden in plain sight and only located when it is realised that the visual appearance of the letter also has no significance. Further factors contributing to the ‘hidden in plain sight’ effect include the size of the 2015 document, the intensifiers and the choice of words. Above all, the hortatory impulse is to ‘radical’ change (DfE 2011, 15) based on joined-up action. At face value, no-one can disagree. The implication may be that what is provided for learners will be radically different but the radical change in the 2015 Code lies in the ghosted, arms-length commissioning of provision.

The then under-secretary of state for children and families, Edward Timpson, issued a press release on the day of the current Code’s initial release in 2014 (noted by Broach *et al.* 2016,161) stating that the Code “is the beginning of a journey”. The nature of that journey demands interrogation. Ball’s extensive and compelling analyses of the global “big business” of education (2012, 116) indicate that “within [official] policy, education is now regarded primarily from an economic point of view [with] an increasing neglect or side-lining (other

than in rhetoric) of the social purposes of education” (Ball 2013, 14). Goodley (2014) highlights the “cruel optimism” of belief “in the power of the market to liberate us” (138) but the current business potential is enormous! Just for example, writing for the Observer newspaper following a Freedom of Information request, Boffey (2016) notes, for example, that half of the largest 50 academy chains pay their executives more than the Prime Minister’s annual salary of £143,000 (6). It is worth noting, however, the range of voices pointing out the lack of evidence for the assumed efficacy of academisation and related approaches (Forum 2016, National Foundation for Educational Research 2015, Rosen 2016).

Most fundamentally, too, the effect of the 2015 documentation, by dint of its sheer size and business approach, “both ghosts” and assumes the “othering” of learners with SEND. This can be seen as a new manifestation of the discourse described by Thomas and Glenny (2002) through which teachers in ordinary schools are persuaded that they are not “sufficiently knowledgeable or sufficiently expert to help children who are experiencing difficulty: that they do not have sufficient technical expertise or theoretical knowledge to teach all children” (355). Thomas’ (2013) critique of the 2011 Green Paper is also helpful in highlighting the limitations of uncritical thinking in SEND, “as if there were a population of young people with constitutional difficulties who could be precisely identified, if only our assessment procedures and tools were reliable enough” (477). Interestingly, Thomas argues that this is partly rooted in beliefs about ability and partly in vested interests (477).

The language of all three Codes is reasonably clear. The 2015 Code will have been through scrutiny to ensure plain English but it is the overall effect of this 2015 Code, rather than the actual words used, which is both complex and opaque. Nettleton and Friel (2015) argue that the new system is “overcomplicated and confusing” (8) but the confusion is for parents, children and young people. In the context of localism, a local offer is paramount and this is one where “the local state is at once responsabilised and stripped of both autonomy to design or deliver and of resources to fund” while open to challenge by “non-state entities” (Allan and Youdell 2015, 8). Thus, obfuscation is in the very name of choice, accessibility and ‘joined-up’ offer but with the potential to deepen inequality. Domestic fragmentation, even Balkanisation of both SEN D policy and education policy in general sit within a broader political picture, now inevitably dominated by Brexit and therefore with potential to ghost education and SEND still further, allowing any “provider” to fill the pedagogical vacuum.

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